

UNIVERSITY OF ZIMBABWE



**A THIRD SEX IDENTITY: ASSESSING CULTURAL AND STRUCTURAL VIOLENCE
AGAINST INTERSEX PEOPLE IN TANZANIA**

BY

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ABSTRACT

This is a study involving intersex people and their lived realities in the communities. The study involved 18 interviews which targeted an intersex person, parents, a religious leader, governmental and non-governmental organisations. Respondents were classified according to their roles in the community and within their institutional levels.

This paper aims at highlighting some of the impact intersex people have had on a variety of theories of sex and gender in Tanzania, and examine whether the intersex movement could effectively use legal frameworks developed by African feminist to modify the existing practices that are based on sex and gender systems.

Intersex persons do not conform to the society's fundamental assumptions that there are only two sexes and only two types of normal bodies. My focus on this study is not just to give a voice to intersex people and how they experience intersexuality, but also to highlight how various social and legal structures have provided services in a way that exclude intersex people. It also assessed the views of health professionals and the community at large on medical treatment and management of people with intersex condition.

The paper also argues that intersex people should not be grouped in a group of homosexuals, being intersex is about biological make up while being homosexual is about sexual orientation, therefore their issues needs to be addressed differently, their needs cannot be compared to homosexuals. It goes further on advocating for having separate organisations that specifically address the rights of intersex people.

Keywords: intersex, sex, gender, sex identity, human rights, third sex, culture, discrimination, equality, formal equality, substantive equality, and cultural violence.

EXECUTIVE SUMMARY

The author is a lawyer, who is currently working with the National Identification Authorities, Tanzania which is under the Ministry of Home Affairs.

Being a lawyer she had previously volunteered to work actively with governmental and non-governmental organizations (including international organizations) in Tanzania, whose primary work was to provide social services to the community and legal assistance to the victims of human rights violations.

In her professional work she had never interacted with an intersex person and never thought in mind that these people existed. Considering the fact that she had been dealing with different people by providing legal assistance, most of the victims interacted with were women and children.

The study finds that intersex people remain victims of human rights violation and become susceptible to abuse because of social, cultural, and religious resistance to accept intersex people as human beings with lived realities and needs. The first chapter brings out the main reasons that pushed the writing of this paper, while bringing out the gender stereotypes with regards to intersex people. It also explains the main objectives of conducting research, the research assumptions and research questions, and brings out the conceptual and theoretical framework.

The methodological framework in this research was informed by the understanding that intersex people falls outside what is considered the normal definition of sex which is male or female. Therefore using grounded theory, sex and gender approach, sexual right approach, human rights approach, semi autonomous social fields, and influence of the established sex and gender perceptions on Actors and structures, assisted in understanding the lived realities of intersex people in the communities, society's views and interpretation on sex and gender, whether the existing governmental and non-governmental organisations in Tanzania includes intersex people when providing legal assistance to victims of human rights violation, and whether intersex people have the right to decide freely on matters related to their sexuality.

The methods used in the data collection process were individual interviews, in-depth interviews, focused group discussion and personal observation. Interviews were conducted to various people

in the communities including parents, a religious leader, government officials and non-government officials in order to assess their understanding towards intersex people. Also the main tool used in conducting interview was snow ball sampling method since intersex people are a hidden community it was not easy to access even one intersex person using other methods.

The findings obtained in the research were that most people are not aware of the existence of intersex people in Tanzania, that religion and biased cultural practices prevent intersex people from attaining their rights to identity in Tanzania which in turn exposes them to other human rights violations, that most people fail to appreciate the need for recognition of a third sex identity because of religious and cultural attitude, that the current law in Tanzania reinforces discrimination against intersex people and thus violates their right to identity, that intersex people are discriminated against as a result of government's failure to put in place adequate measures to ensure the recognition of the rights of intersex people in Tanzania, that the level of participation of non-governmental organizations in the protection and promotion of the rights of intersex people is still low in Tanzania, and that the government has a positive obligation to ensure the protection and promotion of the rights of intersex people in Tanzania.

In accordance with Tanzania Regional and International instruments, the study finally formulated the need to amend the national policies and local legislations to find a way to accommodate intersex people as human beings just like male and female persons.

The research concludes that there is a need for awareness raising to the communities, parents, teachers, various social institutions, non-governmental organizations, lawyers, advocates, judges, magistrates, and human right activist in Tanzania on the existence of intersex people and their rights to identity, to find a way that these people can be exposed in the community and speak their own voices and needs.

DECLARATION

I Grace Thomas do hereby declare that this dissertation is my work presented towards the award of Masters Degree in Women's Law from the University of Zimbabwe. It has not been submitted to any other academic institution. All sources and materials used are well acknowledged and properly referenced.

Signed this.....Day of.....2016

DEDICATION

To all the intersex people in Tanzania, may the stories that you have shared become a reality in the country. To have a well transformed society that will ensure your rights to be recognised for who you are, and attain your liberty as other people in the community.

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Also each and every one of my respondents for giving your time to listen and share the information which became useful for this research.

LIST OF ACRONYMS

UDHR Universal Declaration of Human Rights

CEDAW Convention on Elimination of Discrimination against Women

CRC Convention on the rights of the Child

ICCPR International Covenant on Civil and Political Rights

ICESCR International Covenant on Economic, Social, and Cultural Rights

CHESO Children Education Society

CHESA Community Health and Education Service Advocacy

SANA Stay Awake Network Activities

LGBTI Lesbians, Gays, Bisexual, Transgender, and Intersex

TGNP Tanzania Gender and Networking Programme

TAMWA Tanzania Media Women Association

NGOs –Non-governmental organisations

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LIST OF HUMAN RIGHTS INSTRUMENTS

African (Banjul) Charter on Human and Peoples Rights

Convention on the Elimination of Discrimination against Women (CEDAW)

Convention on the Rights of the Child

Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol)

International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Economic Social and Cultural Rights (ICESCR)

LIST OF NATIONAL LEGISLATIONS AND POLICIES

The Constitution of the United Republic of Tanzania, 1977

The Law of the Child Act, 2009

The Education Act, 1978 and the Education and Training Policy

The Tanzania Penal Code Cap 16 R.E 2002

The National Gender Policy (2013-2017) and the National Population Policy, 2006

LIST OF CASES

Republic V. Mashaka Jackson 2007, District Court Dar-es-salaam (Unreported case).

Pant and others v Nepal and others, Writ no 917 of the Year 2064 BS (2007 AD).

Norrie V. The N.S.W Registrar of Birth, Death, and Marriages, 2013. Available online at <http://www.gendercenter.org.au/resources/polare-archive/archived-articles/the-intersex-view-of-norries-case.htm> on 7March 2016.

CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND TO THE RESEARCH

Just as our ability to breathe, so we rarely question the habit of dividing human beings into two categories: females and males. At the birth of a child we ask almost automatically Is it a boy or a girl? The question carries important messages about both biological and cultural differences; the two categories seem natural.... (Gallacher, 2003:4).

The time has come to think about sex. To some, sexuality may seem to be an unimportant topic, a frivolous diversion from the more critical problems of poverty, disease, famine. But it is precisely at times such as these, when we live in the possibility of unthinkable destruction, that people are likely to become dangerously crazy about sexuality (Rubin, 1984).

1.1 INTRODUCTION

The writing of this paper was provoked by a story shared with me by my father before I joined the Masters programme in Women's law at the Southern Eastern Africa Regional Center for Women's Law (SEARCWL) Harare-Zimbabwe. The story he told me was that, during his secondary education in a boarding school, he studied with a 'hermaphrodite' student. This was the term they used to refer to people with both male and female sexual organs. He narrated how the person was treated because of the dual genitalia. People had never seen such a person and everyone was shocked. The story confused me and raised many questions in my mind which nobody could answer.

One of the most puzzling questions I had was that, whether it was the only hermaphrodite person alive? And if they were many, what could be their living environment? I suppose I had these questions because I only thought people could only ever be male or female. I had never come across or even heard of such people in any world. Having been raised in the Christian faith I believed people could only ever be either male or female persons and that all the people conformed to either the one or the other.

When I tried to share the story with my fellow lawyers, non-lawyers, friends, and relatives to find out what they understood or knew about the issue, most of them said that these people do not exist in Africa only in Europe. Others told me that God created males and females, and therefore what I was talking about was associated with witchcraft .They had never heard of such a thing.

In January 2015 I joined the Masters programme in Women's Law and later on I was privileged to go on the course Gender, Law and Sexuality. I remember my first day in class with one of the lecturers, Prof Sylvia Tamale when she said that in order for the course to become alive and meaningful to us, we as students had to unlearn and relearn.

I immediately wondered, 'What does she mean by unlearning and relearning?' As I considered myself learned. Before I raised my hand to ask my question she answered that unlearning is all about weighing previously acquired beliefs while confronting the new ones (Tamale, 2011). I asked, 'Do you mean that I should remove my ways of life and beliefs which made me what I am today?' She answered, 'No, I do not mean you should destroy what you already know, but rather look at the realities and possibilities of life from other points of view' (Tamale, 2011).

Being in class almost every word evoked a whole new world and vocabulary form. This made me interested and eager to learn about new issues every day. One of the things that I learned about sexuality was that there are intersex people living within communities. Intersex was a new term to me and I discovered that the word hermaphrodite is actually a derogatory term that illustrates negative societal attitudes towards people with dual genitalia. I cast my mind back to the story shared with me as well as the exchanges I had with my friends, relatives, and workmates and they gave credence to the notion that intersex people have been disenfranchised. This then became a good starting point for me to interrogate the issues of intersex and intersex people and to conduct a research in my home country to find out if there are intersex people living in communities and if so what their living environment is like.

Lately, there has been a great deal of concern about gender and sexuality in Tanzania, but what interested most is the issue of biological sex. How do we define sex? What are its unique characteristics and how does sex interact with our many characteristics and identities. I believe that because of our failure to define sex clearly leads to the existence of hidden population within the communities in which we are living, and this gives rise to the very real possibility that they, being invisible, are the victims of invisible but very real human rights violations.

1.2 Definition of terms

When I conducted this research I found important to define some of the key concepts that would frequently be used in this paper so that I could describe as precisely as possible the exact meaning of the realities I desired to convey to the mind of the reader. I realised that failure to grasp these concepts might cause the loss of the essence of the whole issues presented in this paper. Therefore the following are the key concepts that will frequently appear;

Sex refers to the biological differences, chromosomes, hormonal profiles, internal and external sex organs (Nobellius, 2004). For example the state that a person has vagina and uterus is assigned as a female. And when one has been born with penis and testes is assigned as a male.

Gender refers to a cultural definition of behaviour and roles defined as appropriate to the sexes in a given society at a given time (Tsanga, 1999:69). Therefore from the definition we come to agree that sex is biology while gender is society (Tsanga, 1999:69). Constructions of gender include contextually grounded predictions about people's sexual identities, knowledge, behaviours, beliefs and practices (Bennett, 2011:92).

Intersex. Intersex Society of North America, 2006 defines intersex as a general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male. Based on this definition we come to understand that intersex people are people who have been born with a reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male, and it therefore becomes difficult to tell whether a person is male or female.

Sex Identity refers to the recognition that comes as a result of the sex that a person has (Caughie, 2010). For instance if a person has a penis is identified and recognised as a male person and if one has a vagina is identified and recognised as a female person.

Third sex refers to a concept where by individuals are indicated either by the communities or themselves as being neither male nor female (Lerum, 2009).

Third sex identity refers to a state of personal identification or being identified by the society as neither male nor female (Bering, 2010).

Third gender refers to a term that is used to define any society or legally recognised gender roles which do not fit the gender binary of male and female (Heine, 2013).

Sexuality covers a wide array of complex elements, including sexual knowledge, beliefs, values, attitudes, and behaviours, practices, roles and relationships (Izugbara, 2011:59). Ideas about our sexuality are highly influenced and shaped by culture, law, religion, and gender (Tamale, 2011:11).

Culture can be defined as a system of inherited conceptions expressed in symbolic form by means of which men and women communicate, perpetuate and develop their knowledge and attitudes towards life (An-Na'im, 1992:23).

Law can be defined as a system of rules that govern people's behaviour (Heald, 1995). There is a direct relationship between culture, religion, gender, law, and sexuality. Law is formed in elements of culture, and religion (West, 2008). Its main purpose is to regulate and protect the sex and gender system in our society (Tamale, 2011:11).

Right Oatsvaal, 2015 defines a right as everything a person deserves to get by virtue of being a human being. For example the fact that you are a human being means you deserve the right to life, right to be heard, right to be respected and many others as reflected in various international human rights instruments.

Discrimination. Article 1 of CEDAW¹ defines discrimination to mean distinction, exclusion, or restriction made on the basis of sex which has the effect in the recognition and enjoyment of human rights.

Violence is any physical, emotional, verbal, institutional, and structural, attitude, policy, or condition that diminishes, dominates, or destroys others and ourselves (Bobichand, 2012).

¹ Convention on Elimination and Discrimination against Women

Cultural Violence refers to those aspects of culture exemplified by religion and ideology that can be used to justify direct violence (Galtung, 1990:291-292). May involve those aspects and beliefs in which a person is taught from childhood.

Equality. Article 12(2) of the Tanzania Constitution provides that every citizen is equal before the law, and entitled to protection without discrimination. Therefore from the provision in the Constitution the concept of equality can be interpreted to mean equal treatment.

The concept of equality and non-discrimination can be explained to mean that like cases must not be treated differently, and different cases must not be treated in the same way (Prechal, 2009). This means that if it has been found that two categories of people are not treated the same way, the issue to be raised is whether these people are similar or not. And if they are not similar, there is no problem of treating them differently. When they are similar the issue to be raised is whether the different treatment can be proved or justified (Prechal, 2009).

Formal equality regards all human beings as being the same and it provides that they should receive the same treatment (Marie, 2013). It does not take into account biological and gender differences (Rawlinson, 1977). There are certain people who do not receive the same treatment as others because of their group; they have needs that should be addressed differently. For example, people with disabilities, women, children, intersex people and many others. This is the reason why the writing of this paper will keep challenging the idea of formal equality for intersex people, because sometimes equal treatment reinforces inequality.

Substantive equality stipulates not only formal legal equality, but demands the correction of historical, systemic, and structural barriers to enable equality of opportunity, equality of access, and equality of results (Rosenfeld, 1986). In order to ensure that all human beings enjoy equal rights. I find it very important to take the approach of substantive equality which recognises the reality that though human beings are born equal, they have unique needs that set them apart and that should be addressed differently with regard to their biological and gender differences.

1.3 Theoretical and conceptual framework

Having realised that Tanzania seems never to have given voice to its views on matters relating to intersex people. I thought that there was no better time than now for me to do so and to use the knowledge of activism to change the situations affecting the intersex community in my home country. In order for this work to be effective it was important to consider my audience, meaning that there was a need to adopt a mechanism that would encourage members of the community to critically assess the topic presented before them. Some of the many important elements that needed to be considered were the elements of culture and traditions.

I felt that it was appropriate for me to employ an African feminist approach which correctly required me to refer to an African as opposed to a Western environment. (Nnaemeka, 2014:376). Since I was writing about issues which were happening in my own living environment. I did not want to go into my community and criticise the ways of life of any of its people. My whole aim was to encourage people in my community to improve their existing culture and traditions. Although we are proud of certain aspects of our culture and tradition, I believe that there is always room to modify the existing ways of life in order to accommodate the concept of equality. It can be observed in the work written by Nnaemeka, 2014:376 that:

‘.... For the development to take place in Africa, greater attention must be paid to building on the indigenous’

When I speak of indigenous refers to anything that people find it important in their lives, which tells how their form and content of development strategies are in their nation (Nnaemeka, 2014:376). It includes various social institutions such as religion. Therefore when we build from the indigenous we have to make sure that the development change automatically fit to these things.

In this respect I agree with Weems (2004:33) that:

‘Western feminist are often concerned with peripheral topics and do not focus their attention on major concerns....They think that by focusing on exotic issues in the ‘third world’ they have internationalised their feminism’.

When I first started thinking seriously about this topic as research material I knew that it was only going to be effective if I started appreciating that our society's approach to sex and gender is not entirely unacceptable even though it does exclude certain groups of people, including intersex people. I considered what Busia (2009) said:

‘Rethink gender, Rethink power,
Consider gender power-
Consider gender, Consider power,
Rethink gender power:
Transnational, intergenerational, globalised-‘.

With this in mind , I thought that the best way to start a discourse about intersex people and their issues was to employ Nego-feminism in order to encourage the gate keepers of culture including religious leaders, chiefs, parents, guardians, teachers, legislators and policy makers, various government officials, non-governmental organisations, human right activist, magistrate , and judges, to discuss the topic and always keep in mind the need to maintain consensus on the crucial value of equality and non-discrimination before the law.

1.4 The Research problem

The primary research problem is whether the right to sex identity is extended to intersex persons in Tanzania. The Constitution of the United Republic of Tanzania under article 12(1) guarantees the right to recognition and dignity, article 12(2) provides for equality and non-discrimination, and article 15 gives every individual the right to live and being protected by the society. Tanzania Having ratified various international human rights instruments has found itself to observe among others article 16 of ICCPR which provides every person the right to recognition before the law, and article 5 of the Banjul Charter which provides for the right to dignity. The reality on the ground shows that intersex people are not recognised by the Tanzania's legal or social structures. The law is however male/female binary.

This assumption that people are either male or female affects the service delivery. In order for a person to enjoy any rights under the constitution or international human rights instruments they have to be either male or female.

Intersex persons have their own unique identity that falls outside what is considered as the normal definition of sex which is male and female. Their gender cannot be fixed as either masculine or feminine. Which sex do we assign these people? Do they have to cope within our own definition of sex? And if so how will their needs be addressed? Do we assume that their needs resemble male and female persons? Surely failure to recognise the existence of intersex people in Tanzania has already led to a series of rights violations of their human rights.

1.5 Main Objectives of the Study

1. To assess the level of awareness in the communities on the existence of intersex people in Tanzania.
2. To determine the extent to which cultural and religious influence is responsible for and legitimises structural violence against intersex people in Tanzania.
3. To investigate whether there are any measures put in place to recognize the rights of intersex people in Tanzania.
4. To examine the role of the government in protecting and promoting the rights of intersex people in Tanzania.
5. To assess the position of the law in reinforcing the rights of intersex people in Tanzania.
6. To probe the level of involvement of non-governmental organizations in the protection and promotion of the rights of intersex people in Tanzania.
7. To examine the necessity for the recognition of a third sex identity in Tanzania.

1.6 The Research Assumptions

1. That most people are not aware of the existence of intersex people in Tanzania.
2. That religion and biased cultural practices prevent intersex people from attaining their rights to identity in Tanzania which in turn exposes them to other human rights violations.
3. That most people fail to appreciate the need for recognition of a third sex identity because of religious and cultural attitude.

4. That the current law in Tanzania reinforces discrimination against intersex people and thus violates their right to identity.
5. That intersex people are discriminated against as a result of government's failure to put in place adequate measures to ensure the recognition of the rights of intersex people in Tanzania.
6. That the level of participation of non-governmental organizations in the protection and promotion of the rights of intersex people is still low in Tanzania.
7. That the government has a positive obligation to ensure the protection and promotion of the rights of intersex people in Tanzania.

1.7 The Research questions

1. Is it the case that most people not aware of the existence of intersex people in Tanzania?
2. Do religion and biased cultural practices hinder intersex people from attaining their rights to identity in Tanzania leading to a series of rights violation?
3. Is it the case that people do not see the need for recognition of a third sex identity because of religious and cultural attitude?
4. Does the law reinforce discrimination of intersex people in Tanzania there by violating their rights to identity?
5. Are intersex people discriminated upon as a result of government failure to put in place adequate measures to ensure recognition of their rights?
6. Is the level of participation of non-governmental organizations in the protection and promotion of the rights of intersex people still low in Tanzania?
7. Does the government have a positive obligation to ensure the protection and promotion of the rights of intersex people in Tanzania?

1.8 Summary of Chapters

This thesis comprises five chapters. In this, the first chapter, I outline what prompted the research, the key concepts that will be used throughout the research journey, a summary of the theoretical and conceptual framework supporting the research topic, the main objectives of the study, and finally the research assumptions and questions. The second chapter will focus on the methodological approaches, their significance in the research, the methods used in data collection and the emerging issues that occurred in the field. The third chapter will present the main findings of the research, while the fourth chapter will discuss the gaps within the laws and policies and the resultant challenges of social structures. Finally, the fifth chapter will focus on the study's conclusions and recommendations.

CHAPTER TWO

2.0 METHODOLOGY

2.1 INTRODUCTION

In an effort to meet intersex people, I needed to develop an appropriate research framework that would assist me in the data collection process. To make this effective it was important for me to have a number of suitable methodologies which I could implement throughout the research process. This chapter presents a comprehensive discussion of these methodologies, the methods, and tools used in the data collection process as well as the limitations of the research.

2.2 The Methodological Framework

This is the starting point for the researcher and it describes the generative means through which the work is done (Shawn, 2012). It guides the researcher as to which is the most appropriate approach to employ in order to obtain the information needed for the research. Below are the methodologies used in the research and their significance.

2.2.1 Grounded Theory is an iterative process in which data and theory lived reality and perceptions about norms are constantly engaged with each other to help the researcher decide which data to collect and how to interpret it (Bentzon et al, 1998:18). It was important to use this methodology so as to assess the understanding of the communities towards intersex people, in order to know their lived realities.

Since I had never met an intersex person before, the only idea I had in my mind about them using the knowledge obtained in the Gender Law and Sexuality course was that intersex people do indeed live within our communities. Therefore I decided to go into the field and discuss the topic with parents, religious leaders, governmental and non-governmental officials, family, friends, and relatives, in order to find out their views towards intersex people.

I also considered that these discussions might possibly lead me to meet with intersex people, since it was not easy to identify them by appearance, or meet them through organizations which

support Lesbians, Gays, Bisexual, Transgender, and Intersex persons (LGBTI) in the country because they work secretly due to the countries problematic laws and policies.

I must admit however that I wondered what would happen if these people did not understand the subject of the conversation at all. What would I do? Would I have to change the topic? On my first day in the field I discussed the topic with one of the non-governmental officials dealing with gender issues, and asked her if she had ever met with an intersex person in either her living or working environment. She looked at me straight in the eye ‘well, you mean lesbians, and gays of course I know them. I said ‘No, I mean intersex people, and then explained to her who they really are , she was shocked and asked me, Do you really think these people exist? I have never met one or even heard of them. This is when I began to realise that some people consider intersex in a group of LGBT² community when in truth, they are not.

On my second day in the field I conducted interviews with some government officials in various ministries. Most of them were also not aware of the existence of intersex people in society. This answered my first assumption that most people were not aware of the existence of intersex persons. And those few people who seemed to be aware of them referred to as being members of the LGBT community.

Then I decided to go a bit further and discuss the topic with a priest in a Roman Catholic Church, telling him that I wanted to understand the lived realities of intersex people. I was so surprised at the kind of information he shared with me. He said that one of the worshippers in the church was an intersex person that they and their parents had since become good friends with the priest. He also mentioned that he had gone to secondary education with an intersex person who lived within his community. This response challenged all the confusing questions and doubt originally harboured when I first wondered whether I would receive any information about intersex people from members in the community.

The first question I asked him was, ‘How did you know that the person was an intersex person? He said that it was so simple .Having heard rumours from church members, that the person had two sex organs, he simply approached the parents of the person and, asked them if what he heard was really true, because the child was raised as a female, and even the person’s body structure

² Lesbians, Gays, Bisexual, Transgender

looked like that of female. He said that it was very difficult for the parents to tell him the truth and that it took a month for him to gain their trust. And when I asked him to introduce me to an intersex person, this became very difficult for him. He asked me,

‘What kind of picture would you bring of the intersex person to the society? How would the person’s parents perceive you? These issues are not supposed to be spoken about openly at all. They must remain a big secret in order to protect this person. I am not even supposed to share it with you. This is the reason why the person’s parents did not like exposing their child to the community’³.

And when I asked him if he saw the need for the government to recognise of a third sex identity, the answer he gave me was a definite NO, because it was against God’s will, and morals.

The discussions I had with parents in the community made me realise that the society’s views concerning intersex people were associated with witchcraft, curse, and disabilities. Only a few parents seemed to be aware of the existence of intersex people, but they suggested that the government should provide funds for intersex children to undergo surgery early in their childhood before they grow up. This shows that initial gender uncertainty is unsettling and stressful for families (Lee, 2006:491). It also explains that for years one meaning of intersex was disability (Feder and Karkazis, 2008).

This challenged the second and third of my assumptions in that before going into the field, I thought it was only culture that provoked intersex people from attaining their right to identity, and the second assumption was that most people did not see the necessity for recognition of a third sex identity because of cultural attitude.

The interview with the religious leader made me realise that religion also plays a significant role in preventing intersex people from attaining their rights to identity. Even though he as a religious leader had associated with two intersex people and their parents, he did not appreciate the necessity to recognise these people in society.

Therefore I had to adjust these first two assumptions. I adjusted the first assumption to read that culture and religion prevented intersex people from realising their right to identity. I adjusted

³ On 1st January 2015 at the Roman Catholic Church-Dar-es-salaam.

my second assumption to read that most people did not appreciate the need for necessity of a third sex identity because of cultural and religious attitudes.

Talking to a religious leader, parents, and some non- government officials helped me understand the lived realities of intersex persons, how the society perceives them, that these issues were not supposed to be spoken about openly, that such information was hidden information, and it made intersex people a hidden community. This methodology suggested that there is a need to put in place an immediate solution to help intersex people in the form of an information dissemination programme whose aim would be to encourage society to empathise with and accept them.

2.2.2 Sex and Gender Approach

In order to understand the society's views about interpretation of and their understanding of sex and gender it was necessary to use this approach in order to understand how intersex people fit into the traditional views about sex and gender roles, since it is traditionally the sex of a person which is typically determine a person's gender role. The reason why gender matters so much is that peoples access to power, authorities, resources, opportunities, self- determination, dignity, and integrity of the body is influenced by the way they are gendered (Bennett ,2002:19).

The living environment of intersex persons depends on the way the society interprets their sex and gender roles. For example if the understanding of a community towards sex were male and female only, then intersex people would have to cope within the definition prescribed by that community in order to gain its acceptance and recognition .

The interviews conducted in the prison cells with the head of prisons and parents gave insights into the fourth and fifth assumptions. The fourth assumption was that the law reinforces discrimination against intersex people in Tanzania thereby violating their rights to identity, and the fifth assumption was that intersex people were discriminated against as a result of the government's failure to put in place adequate measures to ensure recognition of their rights.

Taking a sex and gender approach , I was able to discover that intersex people have been born into a social and legal environment that is hostile to their existence, because it operates only within the sex and gender binary of male and female persons.

During my interview with the head of prisons, he told me there were intersex prisoners but they did not have a proper place to keep them. Normally, he said when these people were taken to court they were identified as either male or female, because the law operates in such a way that it caters for male and female prisoners only.

I remember sharing this finding with one of my colleagues whose response was, ‘Do you think the government needs to bother about (catering for intersex people) one or two out of millions of people? I answered with another question, ‘When the government designs facilities for disabled persons, does it first determine how many disable persons there are before it does so? When I was in secondary school there were facilities to accommodate people with disabilities, and we had only one student who was disabled. Therefore my question was ‘How many people with unique needs do there need to be before the government is obliged to cater for them? The answer is surely even one case is sufficient.

The sex of a child has traditionally been the most significant factor to determine their gender (Jorge, 2007:17). It is ironic for a society to put forward a standard by which to measure gender, yet have no understanding or certainty itself as to how gender is formed (Jorge, 2007:17). This hypocritical social attitude ends up on to forcing sex and gender of an intersex child, labouring under the problematic assumption that gender cannot exist in the absence of clearly defined sex organs. The fact is however, that the intersex condition and one being either male or female are two different things (Butler, 1990).

The sex and gender approach helped me to realise that there is a need to design a policy that specifically addresses the unique condition of intersex persons and their needs. It has also helped me to realise that there is a need to amend by expanding the laws that we have to include the recognition of intersex persons as well as female and male persons.

2.2.3 Human Rights Approach;

This approach recognises rights holders, and their entitlements, and responsible duty bearers, and their obligations. It explores how they should work together –towards strengthening the capacities of all rights holders to ensure they make their claims and duty bearers fulfil their obligations (UNOCHR, 2006). One of the basic principles of human rights is that they are universal. My main focus was on the concept of substantive equality, which aims at providing

the same treatment to similar persons and different treatment to different people in order to attain the concept of equality (Prechal, 2009).

Tanzania having ratified various international human instruments (such as ICESCR, ICCPR, Banjul Charter, CRC and many other related conventions) has made them part of our laws. Therefore this methodology helped me to assess the extent to which the state is complying with these instruments to ensure the protection and promotion of the rights of intersex persons. This was very important because when we speak of human rights we are referring to the rights we derive or spring up in us by virtue of being a human being (Oatsvaal, 2015). Human rights become problematic in their implementation.

Therefore when it comes to implementation, do all human beings actually exercise equal rights? For instance, when we say that all human beings are born free and equal is it true when it comes to their implementation? We talk of the right to recognition but is this right respected? When we talk of the right to equality before the law can this right be freely implemented? What about the right to education? In order to make use to this approach was guided by the following articles of Tanzania's Constitution including; article 11, which promotes the right to education, article 12(1) which guarantees the right to recognition and dignity, and article 12(2) which guarantees every individual equality before the law and protection without discrimination, article 13 which grants every human being the right to freedom and to live as a free person, article 15 which grants every individual the right to live and be protected by the society, article 16 which ensures the right to privacy, and article 18 which guarantees the right to receive information.

I also considered the following provisions of various human rights instruments including article 13 ICESCR, which recognises the right of everyone to get education, article 3(1) and (2), of the Banjul Charter, which provides for equality and equal protection before the law, article 5, of the Banjul Charter, which guarantees the right to dignity, article 9 of the Banjul Charter which guarantees the right to receive information, and article 16 of ICCPR which ensures the right to recognition as a person before the law.

I visited one human rights organisation in the expectation that it would be the place which would provide me all the information needed for the research. When I asked one of the officials what her organisation had they done with regards to issues of intersex people, she was surprised. The

word intersex seemed to represent for her a whole new unknown world. And even when I tried to explain to her what it really meant, she still looked puzzled. Said they did not have sort of work. I then realised that this human rights organisation limited its work to the confines of the sex and gender systems existing in the country. I noticed that this organisation was running a campaign week on issues of violence, but that intersex people were not included. When I asked why these people were not included, she replied, 'Well, I was not aware of these people. So I posed another question that now you are aware will you include them? She said, 'No, my culture does not allow me, this is not what I believe. The laws and policies of the country do not support that. This made me realise that when we speak about aspects of equality and non -discrimination and equal protection before the law we do so within the male/female sex paradigm.

This then brought to mind my sixth and seventh assumptions which the evidence in the field seemed to confirm that the level of participation of non-governmental organizations in the protection and promotion of the rights of intersex people is still low in Tanzania. The seventh assumption was that the government has a positive obligation to ensure the protection and promotion of the rights of intersex people in Tanzania. Evidence from the field was revealing that the state has failed to fulfil its obligation under international instruments to ensure the protection and promotion of the rights of intersex persons. I found that even the existing organisations that seemed to deal with intersex people still worked secretly, were not supported effectively by the government, and most of them were found in remote areas which most people could not reach easily.

My last visit to one of the organisations dealing with intersex people was not an easy one at all. I used three types of public transport, to reach its executive director, of which I thought that the office was near by the meeting point. We then travelled together for about half an hour and over a long distance to reach the organisation. We had to travel by motor cycle to the organisations office and had to negotiate a river to access it. One of the main challenges the executive director raised was that they were not able to open their office daily due to the fact that its location was far from the people it served. He said people could not afford to pay at least 10000/=Tanzania shillings (about US \$5) per day needed for transport to visit the office.

An advertisement outside the office said they provided assistance to the most vulnerable children in the society but intersex children were not specifically mentioned. This seemed to be an

example of low-key implementation of the human rights of intersex people. Human rights NGOs seemed to have selected only certain groups of people to benefit but the most deserving such as intersex people were omitted from their agendas.

Using the human rights approach I found that when addressing the human rights of intersex persons it was imperative to shift the current focus from the formal acknowledgment of equality to its substantive realisation in order to bring about enjoyment of equal rights.



**Figure 1:the intersex organisation located in remote area-
Dar es salaam**

2.2.4 Sexual Rights Approach. In order to assess the extent in which intersex persons were able to decide on matters related to their sexuality, it was important to employ the sexual rights approach and connect with the reality on the ground in order to come up with effective answers that would assist to suggest for an immediate solution.

Sexual right refers to the individual's right to have control over and to decide freely on matters related to sexuality free from coercion or force, discrimination and violence. It includes the right to dignity, privacy, physical, mental, and moral integrity while realizing a sexual choice (Tambiah, 1995:372).

The questions raised were whether intersex persons have the right to decide freely on matters related to their sexuality, whether their parents and doctors have the right to decide on the sex of

an intersex child, and whether performing medical surgery serves the best interests of an intersex child which is always the primary consideration.

I was guided by article, 3 of CRC⁴, which stipulates that the best interests of the child is the primary consideration for all actions taken by the public, private social welfare, institutions, courts of law, administrative authorities, and legislative bodies, and article 8 of CRC⁵, which compels the state obligation to respect the rights of the child, including the right to preserve the identity from any unlawful interference.

In January 2015, Committee on the Rights of the Child for the first time when dealing with the issue upon the review of a country report on harmful practices in Switzerland. Committee expressed its deep concern at⁶ :

‘.....Cases of medically unnecessary surgical and other procedures on intersex children, without their informed consent which often entail irreversible consequences and can cause severe physical and psychological suffering and the lack of redress and compensation in such cases’(Nordic Journal of Human Rights,2015).

This comment should be considered in the light of the following provisions of the Law of the Child⁷ (section 13) prohibits any person to subject a child to torture, or other degrading treatment including any cultural practice which dehumanizes the physical and mental well-being of a child, section 9(1)⁸ which gives parents obligation to ensure the right to dignity of the child. Section 9(3)⁹ which gives parents duties and responsibilities to protect the child from abuse, exposure to physical hazards and oppression.

Based on the interviews I conducted in the field I realised that doctors in the consultation with parents agreed on deciding the sex of a child, and this decision extended further to medical surgery and the removing of organs of one or the other. Doctors assure parents that there is one sex which dominated the other, and therefore the weaker had to be removed so that the child

⁴ Convention on the rights of the Child

⁵ Convention on the rights of the Child

⁶ CRC Committee, Concluding observations on the combined second to fourth periodic reports of Switzerland, 26th February 2015.

⁷ Tanzania law of the Child Act, 2009

⁸ Tanzania law of the Child Act, 2009

⁹ Tanzania law of the Child Act, 2009

would conform to being either male or female. The question to be raised here was whether it was possible to determine which sex dominated while the child was still young.

In order to answer this question above I needed to find an intersex person to share their personal story. Here is one of them:

‘I have been raised as a female, the parents took me for surgery when I was still young, and it was found that if the operation would take place I would die, hence remained intersex. When I was in form one my parents took me to the hospital again so that would be given an injection to kill male hormones, still would not work. Though the parents raised me as a female, but I am grown up and prefer being identified as a male person’.¹⁰

What could have happened if this child had undergone forced surgery while was still young? There was a strong possibility that would have died and even if survived would have suffered psychological problems, because they would have felt like a man but without an organ. That is a penis. Intersex individuals often mourn the body they had before an unwanted normalizing surgery was imposed on them without their consent (Ben-Asher, 2005).

This poses another question, ‘How many surgeries have taken place on intersex children? And were they effective? In fact it is well documented that early genital surgery may cause children to suffer both physically and mentally to the point that they may be compared to intersex mutilations (Nordic Journal of Human Rights, 2015). Therefore it is important for the child to be left alone and untouched until the age of majority at which time they may then decide themselves on matters related to their own sexuality.

At this point I found that that there is a need to give sexuality and sex their rightful place on the national and international agendas of each country. Failure to grasp the importance of this duty undermines the human rights of intersex persons worldwide. Although South Africa is the only African country that has legally recognised intersex it has not gone as far as deciding intersex as a third sex in their Constitution, but it has added sex and gender to the grounds on which discrimination is prohibited. In Australia intersex status has been identified in anti-discrimination law, but it is not mentioned as the third sex.

¹⁰ Interview with and intersex person on 15th Dec 2015, at Roman Catholic Church Dar-es-salaam

2.2.5 Influence of the established sex and gender perceptions on Actors and Structures

It was important to choose this methodology because these actors and structures affect service delivery. Since actors are the people who put in place and make the structures work. Using this approach I was able to identify with ease the correct respondents to interviews. I was able to organise interviews with different government officials who were decision makers and those who had influence in the formulation and implementation of laws and policies in the provision of service.

This was very important because if the attitude and understanding of these policy makers and legislators towards sex was male and female only, there was practically no way they could come up with law and policies that cater for intersex people. In all the governmental offices I visited to conduct interviews, most of the governmental officials were not aware of the existence of intersex people, and those few who were aware did not see the need for legally recognising them because of the influence of culture and religion. Their attitude has a direct effect on the formulation of laws and policies in the country.

2.2.6 Semi autonomous Social fields

Semi autonomous social fields can be defined as the fundamental unit of social control, which is directly connected to behavioural norms of conduct (Dupret, 1973). They can generate customs rules and symbols internally but are vulnerable to rules and decisions and other forces from the wider world (Sally, 1978). Understanding the processes whereby endogenous rules are effective is very important, as these are the very processes that will often determine whether or not state-made legal rules end up being adopted within the social field (Sally, 1978).

Most disputes arise within the family (Tsanga, 1999). Semi autonomous social fields assist in understanding the kind of discrimination intersex people face within the family structure. For example, ‘What happens to the societies and communities if a couple has an intersex child?’

When I shared about the topic with both male and female parents, some of them seemed to know about the existence of intersex people, while others did not. Both mothers and fathers were shocked and tried to imagine what it would be like to give birth to an intersex child in a hospital, and what they would say if people asked them the sex of their child? Would they say male or female? How would they dress their child in male or female clothes? It was so confusing to them. Most of the questions they asked was whether witchcraft had anything to do with giving

birth to intersex children. They said that they would do their best to make sure surgery takes place immediately so that the sex of a child can be either male or female.

The parents who had intersex children were discriminated against by their fellow parents and the society they lived in as a whole. They were considered witches, and some parents forbade their children to associate with intersex children. This is what an intersex person told during the interview:

‘When I was young my parents would not take me to play with my fellow children. One day when I was taken to my aunt’s house I just overheard her forbidding her children to play with me. This is when I went back home and realised that I was different from other people, understood the reason why my parents would not expose me to the playing ground with my fellow children’.¹¹

Therefore the way society and communities perceive intersex birth forces parents of intersex children to hide them so that they are not recognised by the society. Also when they expose them to the outside world they make sure they appear as either male or female so as to gain public acceptance and approval. Since this attitude affects the social fields from which laws originate, these laws end up discriminating against intersex people.

2.3 Research Methods

The research design was qualitative. Qualitative research implies use of small samples and collection of data based on life histories, detailed accounts of specific life events or in-depth interviews with key informants (Bentz et al 1998:152).

I decided to choose this research method because there was a serious need to assess the understanding of the communities towards intersex people, so as to know their lived realities. And this could only be effective by going into the field and organising in-depth interviews with key respondents who are intersex people, individual interviews with governmental and non-governmental officials, religious leaders, and focused group discussions with parents.

2.3.1 Demarcation of Research and Timelines

The research was carried out in Dar-es-salaam- Tanzania, in both districts namely, Kinondoni, Ilala, and Temeke. Data collection was done in all three districts, which started between 26th October 2015 and 2nd April 2016.

¹¹ On 21st December 2015, at Roman Catholic Church-Dar-es-salaam

2.3.2 Code of Conduct

In all the time I was conducting interviews, the SEARCWL¹² code of conduct was observed. I started by introducing the topic to the key respondents. I respected the wishes of those who did not want their identities revealed in the research, still noted their ideas. Confidentiality was observed, especially with regard to the interview I had with an intersex person, priest in a Roman Catholic Church, a few government officials, and the doctor who was attending to an intersex child.

2.3.3 Population Sample

The total number of respondents was 48, the selected sample of the research being government officials from different government ministries, non-governmental officials in the areas of gender issues, and human rights, LGBTI organisations, parents, religious leader, and an intersex person.

2.4 Data Collection Methods

2.4.1 In-depth Interview

An in-depth interview is a method of conducting an interview which involves one participant and is semi-structured in its style (Bill, 2000). With this method it is important to consider who is being interviewed and what factors contribute to their perspective, and how their perspective contributes to the overall research (Bill, 2000).

In this research much personal effort was put into the in-depth interview I had with the intersex person I met. I wanted to find out as much as possible about them and their lived reality. I had to talk to an intersex person and make it clear in the mind of the reader that issues they spoke about revealed their lived reality.

2.4.2 Individual Interviews

Is a method of conducting an individual interview which involves the researcher and respondent with the aim of exploring the responses of people to gather more and deeper information (Chadwick et al, 2008). A mixture of both men and women were interviewed, including government officials, non-government officials, health officials, and a religious leader. The interview started by my briefing the respondents on the research topic and the objectives of the study.

¹² Southern Eastern Africa Regional Center for Women's Law

The interviews helped to have individual discussions with each respondent. The method was helpful as it allowed people to express themselves freely, giving their views on what they thought about the topic presented to them, unlike other methods, like focus group discussions where some people would not express themselves freely in a group of people for example due to fear of what their colleagues might think of them.

For instance I am sure if I had organised a group discussion with several catholic priests in a church where I conducted the interview, he would not have been able to share with me his personal experience with intersex people. I am also not sure that the doctor who was attending an intersex child would have been free to give the information he did in a group discussion. Therefore, in some cases it was very important to organise individual interviews.

The table indicating the individual interviews and in-depth interviews

Interviewee	Male	Female	Total
	Government ministries, and organizations		
Registration of Birth and Death	1	1	2
Court of Appeal of Tanzania	-	1	1
Ministry of Community Development Gender and Children	1	1	2
Ministry of Education and Vocational Training	1	1	2
Ministry of Health	1	1	2
Health officials	1	1	2
Ministry of Information	1	2	3
Commission for Human Rights and Good Governance	2	-	2
Head of Prison Cells	1	-	1
	Non-governmental organizations		
Tanzania Gender and Networking Programme (TGNP)	-	1	1
Legal and Human Rights Center	-	1	1
Tanzania Media Women Association	1	1	2
Chesa (LGBTI) Organization	-	1	1
Cheso (Intersex organization)	1	-	1
SANA (LGBT) Organization	3	1	4
	An intersex person		
An intersex person	-	-	1
	Religious leader		
Religious leader	1	-	1
Total	15	13	28

2.4.3 Focused Group Discussion

Is a group discussion organised by the researcher with the aim of generating collective views and the meaning that lie behind those views (Chadwick et al, 2008). They are also helpful in understanding the respondents' experiences and beliefs towards the topic presented before them.

I was able to engage a group discussion with parents of which one of the non-governmental organisations dealing with LGBTI people helped me to organise the interview. The total number of parents was 20, of which 12 were female parents and 8 were male parents.

I needed to find out as much as possible the understanding and attitude of parents in detail on matters related to intersex people. The method was helpful as it enabled people to explain themselves at length. It also gave me time to ask them more questions about issues that needed clarification.

The table indicating Focused Group Discussion

Interviewee	Female	Male	Total
Parents	12	8	20
Total	12	8	20



Figure 2: interview with the Executive director of the intersex organisation

2.4.4 Personal Observation

It was important to use personal observation as a tool to collect data because it allowed me to acquire data myself that is directly rather than being told information by people or reading up the topic which have been written by other people. For instance I used to read in various human rights reports in Tanzania that LGBTI organisations work secretly due to the countries laws and policies, but when I managed to visit the organisations I was able to find out more hidden issues that nobody would have told me, including the working environment, and the geographical location. It also allowed me to triangulate data where necessary to verify the accuracy of information.

2.5 Desktop Review and Library Research

In addition to the primary data, I also relied on human right instruments, journals, reports, articles, books, online internet sources, national laws and policies, which helped me to construct analyse Tanzania legal framework relating to intersex people and their rights. It paved a way for me to get useful information and materials needed for the effective writing of this paper. The SEARCWL¹³ library was also very helpful.

2.6 Sampling Method

2.6.1 Snow-ball sampling method;

Is a sampling technique that helps the researcher to access information in a population that is difficult to reach (Lecy and Beatty, 2012). The snow ball sampling technique overcomes these problems by utilizing population- level centrality, information contained in Google Scholar and properties of scale free –networks that enable the use of purposeful non-random samples in order to retain the robustness of population level measures, even though they are calculated on a sample (Lecy and Beatty, 2012).

The population sample is intended to grow like a rolling snowball. Enough information is gathered to be helpful for the research as the sample grows. Therefore the more I was able to expand the network, the more information received. This was the overarching method in conducting interview, since intersex people are a hidden population; it was difficult to access them using other methods.

The journey of the research started at TGNP¹⁴, when I conducted an interview with the Gender specialist. Although she was not aware about intersex people and their issues, she gave me the contacts for two people who did their research in Tanzania Kenya and Uganda which was based on the kind of discrimination that infected LGBT¹⁵ people faced within the community. One of those two people was able to give me five website addresses that I could use to access LGBT organisations, of which I managed to access only one organisation which became so helpful because it gave me access to many more details and connections that I did not know.

¹³ Southern Eastern Africa Regional Center for Women's Law

¹⁴ Tanzania Gender and Networking Programme

¹⁵ Lesbians, Gays, Bisexual, Transgender

2.7 Emerging Issues

When I was collecting data in the field the idea that emerged in every interview conducted was that if one is an intersex person they are likely to be referred to as a homosexual. During my interview with the Head of Prison Cells he said:

“Normally these people are grouped in the group of LGBT, they cannot associate with people who are male and female, they will not cope”¹⁶.

Also during my interview with one of the official in the non-governmental organisation dealing with gender issues, when I asked her what she understood when I mentioned intersex, her reply was that they are homosexuals:

‘So far we have not taken any measures to ensure recognition of these people since homosexuality is against the laws and policies of the country’¹⁷.

I had an opportunity to explain to them at length that being intersex is not about sexual orientation, but rather biological make up, one is born with sexual organs that cannot be defined using society’s normal definition of sex which is either male or female because it would make difficult to tell whether a person is male or female. Intersex people cannot be included in a group of homosexuals, their issues have to be addressed differently, and their needs cannot be compared to those of homosexuals.

The discrimination that intersex people face within communities is a result of their sex which does not conform to the accepted definition of sex by the society which is male or female. It is accepted that if one has a penis one is a male person and if one has a vagina then one is a female person. The problem comes when a child is born with sexual organs that do not fit the definition of sex we have. How is their sex defined within the communities? The discrimination that homosexuals face within the communities is more of sexual orientation. The relationship presumed and accepted by society is heterosexual, meaning that it has to be between a man and a woman, if people are found behaving contrary to the socially accepted relationship then are discriminated by the society.

¹⁶ On 4th January 2016 at Ukonga Prison Cells Dar-es-salaam.

¹⁷ On 26th October at Tanzania Gender and Networking Programme Dar-es-salaam.

I went on explaining to them that although both of these cases have human rights implications, it was important for them to be aware that when we engage in discussions on issues of human rights, the intersex condition has to be looked at differently from that of homosexuality so that the different needs of each group are understood and treated separately.

2.8 Limitations and Reliability of Data

Generally the information collected was useful, however I felt that if I had more time I would have been able to access much more information. Although the snow ball sampling method worked for me, it also had many challenges. For instance in early January I managed to obtain the contact details of a certain organisation that deals with intersex people. I sent them an email immediately after receiving the contact details. The email was not answered, so I tried to call them but the number was not reachable. When I tried to go back to the people who gave me the contacts to confirm if there was any mistake in note taking they confirmed the same contact details. So I had to wait for them to answer my email and they eventually did however three weeks later.

And after they answered, it still took time for me to arrange an interview with them, although I managed to meet with their executive director and conducted an interview with him, which he explained to me barriers that prevent intersex people from attaining their rights, still failed to meet with intersex people, as the time scheduled to meet them coincided with the deadline for me to come back to University. Therefore the delay prevented me from interviewing more intersex people which would have expanded the content of the study. Also when I reached the organisation I realised why there was a problem communicating with them due to the fact that their office is located in remote area and it is therefore difficult to access every day.

Some of the government offices took time to answer my research permission letter because they did not see the relevance of the topic presented before them, however, later on I managed to explain the relevance and then they agreed to be interviewed.

2.9 Conclusion

This chapter on methodology aimed at explaining the main approaches used so as to understand the lived realities of intersex people as a hidden community. Despite the fact that many challenges presented themselves in the process of data collection, I did not give up and found the need to explore issues that had been kept silent and hidden for years.

In my next chapter I set out the main findings and analysis and discussion of them. Essentially I critically examine various social and legal structures, government ministries, non-governmental organisations, societies, and communities, their methods of service delivery and how it affects the intersex community.

CHAPTER THREE

3.0 FINDINGS AND ANALYSIS

Sex is an inevitable part of our lives and Identities (Jansen, 2007).

Everyone as a member of society... is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and free development of his personality (UDHR, 1948).

3.1 INTRODUCTION

In this chapter I intend to make the reader aware that what deeply and fundamentally affects Tanzania's delivery of services through its various institutions for example social and legal is its society's silent, rigid imposition of a sex male or female on the recipient of such services, provided by various actors who are government officials in different government ministries and departments will cater for male and female persons only and this unspoken but universal mindset and practices expose intersex people to interlocking oppressions. This is illustrated in the findings based on the data collected from various government ministries and departments. They also reveal how well or poorly various communities, social and legal structures are responding to the needs of intersex persons.

3.2 Challenges faced by Intersex Persons

3.2.1 Impact of culture and religion on sex assignment

Being raised in the Christian faith, most of the words used in the preaching of God were that he created male and female (Adam and Eve). I am not saying that what was taught was wrong, and I am not criticising religion, but perhaps we had our own wrong interpretations. So I asked myself a lot of questions, example if God created male and female only, who then are intersex people? And which category do they fall? Male or female?

These are the sorts of words used and questions asked when discussing issues of sex and gender. What makes me cringe are some of the ways the above statement may be used or perhaps misused in culture wars (Corey, 2015). Ultimately they stop people believing that intersex people

are human beings. The conflict arises within our culture and religious perspectives or statements like it that if anyone does not fall within the definition of sex (which is either male or female) , then they are a curse or abnormal. What makes us female or male, girls or boys, women or men are our chromosomes, and our genitalia. But how we and others are brought up to think about ourselves is what makes intersex condition to be seen abnormal (Dreger, 1998). The current medical approach to intersex children is guided more by cultural and religious bias rather than medical criteria (Krahl and Kuhnle, 2002). During my interview with a doctor attending an intersex child he explained:

‘I am attending an intersex child who is three month old. The parents were so confused after giving birth to such a baby, was seen abnormal. I still monitor the baby to see which sex dominates more than the other so as I remove one. Parents have the right to decide the sex of a child because they know them better than anyone else. The child cannot remain intersex is abnormal must be either male or female. I do not see a need for recognition of a third sex identity because it is against culture, religion, laws and policies of the country; also intersex condition is a disability’.¹⁸

I also found that it was necessary to visit the Ministry of Health to see whether they keep any records of intersex birth. The interview with one of the officials in the Ministry made me realise that so far intersex birth is not a concern to the Ministry; and no proper records for the intersex births were kept.

Even when I tried to engage in a discussion with parents in the community they also shared the same understanding that sex can be only male or female. They said intersex is a disability, and the only solution is early surgery in order to make clear definition of sex and gender for the child. This takes us back to the discussion that the laws we live by originate from the same community in which we live, meaning that people who make our laws live among us and are influenced in the making of those laws by culture and religion. Therefore if the understanding of these people on issues of sex is governed by the male / female binary this will automatically affect the formulation of laws in the country.

3.2.2 Impact of Birth Registration on Intersex Children

Registration of Birth and Death (RITA) which is the authority responsible for issuing birth and death certificates records intersex births as either male or female,. These are the findings

¹⁸ On 27th November 2015, government hospital in Ilala District.

obtained from an interview with one of the Registrars of Birth and Deaths who explained the following procedure:

‘When a child is born in the hospital or any health center there has to be a notification of birth in the place where birth has occurred, written by the doctor with regards to the sex of a child, in case the child is intersex the doctor with the consultation of the parents will choose the sex which is dominant and write it in the notification of birth, then the parents will bring to our offices for registration in order to get the birth certificate. There is no way a person has to be intersex is either male or female. I have not registered any intersex birth. In case the birth has occurred at home there has to be a letter from the local government offices to specify the birth, sex of the child, and the residence in the area, then the letter will be taken to Rita for the further procedure to obtain birth certificate’.¹⁹

The requirements of this procedure puts so much pressure on those responsible for registration, especially the health officials and parents who have intersex children that they have no choice but to select the sex which they think is appropriate for their children. This is normally done by guess work. And after the choice is made surgery follows early. At this stage it is not easy to determine the sex of a child. Genital variations should not automatically be surgically altered and infancy gender identity formation is the result of complex biological and social factors that may not be fully evolved until adulthood (Mayer and others, 2008).

It is clear that from a socio-legal point of view that it is the sex of a person that determines the rights to which one is entitled in one’s capacity to become a proper citizen. There is a direct relationship between citizenship and sexuality (Bennett, 2009). This means that the sex of a person is a significant factor in determining their citizenship. For instance in the case of intersex people, there is no way that an intersex child can be registered or enjoy and obtain legal rights like other human beings, if does not conform to the appropriate sex which is either male or female.

This extends further to other social services ,for example if one needs to travel to another country one needs a passport and in order to get that passport the migration office needs the person’s birth certificate, which indicates their sex and place of birth, in order to prove the citizenship of the person. If one does not have a birth certificate is not regarded a citizen, and cannot apply for a passport.

¹⁹ On 13th January 2016, Registration of Birth and Death (RITA).

In order to obtain a National Identity card one needs a passport and birth certificate both of which indicate the person's sex (either male or female). No birth certificate, no passport, no National Identity Card. In other words if a person does not conform to either male or female sex that person's civil and political as well as other human rights are serially violated. In article 12(1) of the Constitution of United republic of Tanzania, guarantees the right to recognition as a person before the law and article 12(2) provides for equality and non discrimination. Tanzania having ratified various international instruments makes them part of our laws one of which is article 16 of ICCPR ensures right to recognition as a person before the law, article 8 of CRC which imposes upon the state the duty to ensure protection of the rights of the child, and includes preservation of the child's identity without unlawful interference.

Therefore it is not appropriate for the state to offer social services only to people who are only either male or female. This amounts to discrimination because it excludes intersex people and it breaches the provisions in the Constitution and the above mentioned human rights instruments. If we cannot easily establish what makes a man a man and what makes a woman, then the rationale for any sex based distinctions is seriously undermined (Greenberg,2012).

It is important for the state through social and legislative authorities to ensure the protection and preservation of the identity of the child till the child reaches the age of majority and decide. People can decide for surgery when they are older and can make such a serious decision on their own (Sytsma, 2006). Because at that time it is possible for the person to understand the risks and benefit associated with the act.

For example, Germany was the second country after Australia which allows parents to leave the gender on a child's birth certificate blank by putting X instead of M or F for the children born without a clear definition of their sex (Bendavid, 2013). This places the country in a better position for advancing the rights of intersex persons.

The following observations by Wilson (2013) in the analysis of the N.S.W in the Court of Appeal judgement in the case of **Norrie V. The N.S.W Registrar of Birth, Death, and Marriages** on issues related to intersex people. The following words were said:

'People who are intersex may identify their gender as male, female or X. An X passport or identity is a choice to some of us and should not be regarded as mandatory or inherent in

our embodiment. These words were used to argue the case for an X passport on basis of birth certificate which did not specify a binary sex. The issues at the heart of Norrie case are therefore not new to us ,they are also not priority issues even though they create a significant interest and concern about the creation of a third sex. Our priorities lie with far more fundamental issues of bodily autonomy and integrity and protection from discrimination. It is somewhat naive to assume that action on adult transgender or gender diverse annotations on birth certificates will impact on the registration and treatment on intersex infants (Wilson, 2013). It is frustrating that when we get the opportunity to act on concern for the rights of intersex children, the opportunity is not taken, but rather such an opportunity exists into involuntary and coerced sterilization (Wilson, 2013)’.

3.2.3 Non recognition of intersex persons during Population and Housing Census

The population census refers to the counting of the total number of people in a country at a given time (National Bureau of Statistics, 2013). One of the objectives of having a population and housing census in a country is to provide the government with accurate information with regard to the size, distribution, composition, and other features of the population (National Bureau of Statistics, 2013).This information is very important in providing data for the formulation, monitoring, and evaluation of population programmes and policies in the country (National Bureau of Statistics, 2013).

The last Tanzania population and housing census was conducted on 26 August 2012. (National Bureau of Statistics, 2013).Having participated in the data collection of the last National Census 2012, we were trained to count male, and female persons only; intersex people were not counted. The results were as follows. The total population of Tanzania was 44,928,923 of which male were 21,869,990, and female were 23,058,933(National Bureau of Statistics, 2013). Therefore any decision that will be taken by the government on issues of development will be made with reference to the results of the last National Census, and in that case intersex people will not be included because they were excluded from the exercise. It is assumed that their needs are the same as men and women.

If these people were counted the challenge would have been how the enumerator would ask questions in the society and community that is not free to talk about sexual issues. This brings us to another challenging issue which is intersex persons do not have a specific organisation that deals with their issues separately from all other different sexual issues in society. The organisations they belong are in the LGBT movement, which the government finds illegal and

does not therefore support. In an interview with one of the Registrar of NGOs in the Ministry of Community, Gender and Children said:

‘So far we have not registered any NGO dealing with LGBTI people since it is against the countries’ laws and policies. Intersex persons have not been mentioned in the gender policy has to conform in either male or female’²⁰

In other words the government has failed to recognise the existence of intersex people, has denied them their right to be recognised as a person before the law and their right to identity all of which rights have been reflected in various national and international human rights instruments. If the only people the government count and consider citizens are male and female, this shows that intersex people are not regarded as human beings with lived realities and needs in the society as others. Therefore it is very important for the Constitution to expand the definition of discrimination to include the concept of sex and gender, so as to include other people such as intersex people who do not conform to either male or female.

The **case of Pant V Nepal Writ no 917 2064 BS (2007 AD)** is a helpful one. It was declared that the rights of third gender people should be indicated both in the Constitution and human rights instruments. The decision of the court declared that third gender people are not mentally ill or sexual perverts. It called upon the state to create a favourable environment and make legal provisions to enable LGBTI people to enjoy fundamental rights and insert provisions in the Constitution which guarantee non discrimination on the ground of gender identity referring to the Constitution of South Africa,²¹ Chapter Two on the Bill of Rights which provides for non-discrimination on the basis of sex and gender. This case encourages countries to improve and hasten its steps to advance the rights of intersex persons. So far Tanzania Constitution has failed to mention non-discrimination on the basis of sex and gender, and so long as this remains the case, the rights of intersex persons cannot be significantly advanced.

It may be observed that the Tanzania legal framework offers only formal equality to its citizens, meaning that it provides equal treatment to its eligible male and female, while disregarding other people who do not qualify for the same treatment because of their group; in this case I refer to intersex people. The right to recognition and identity is offered in terms of sex only. If you have

²⁰ On 4th November 2015 at the Ministry of Community, Gender and Children

²¹ The Constitution of the Republic of South Africa, 1996

been born either male or female do you qualify to fit into and enjoy the benefits of equality in the provision of social services.

3.2.4 Effects of the legal structures to intersex persons

In order to understand the effect of legal structures which are set up and function to fit only male and female category, I had to conduct an interview with the Head of Prisons Cells which opened eyes to the fact that the failure of the legal structure to recognise the existence of intersex persons leads directly to a multiple violations of their human rights. He had much to say based on his working experience. He started by saying:

‘I did not know there are intersex people till early 1994, when I was in Sumbawanga region prisons. The intersex prisoner was brought to me presented as a male person, and his case being heard as a male person in court. The person stole a camel in his neighbour’s farm. The case was heard in District court Sumbawanga region. All the documents he had presented him as a male person including marriage and birth certificates. Was married to a woman and had two children with her. In prison cell we have a programme to check people’s sex before taking them to appropriate prison, so when I was checking him found the person with the penis and vagina. To me that was a first case it really shocked, I took the person to the regional hospital Sumbawanga. The doctors after checking him discovered that the penis erects and can produce, and the vagina had a hole though did not have the uterus. I took him back to court so that he could be given an alternative punishment since the facilities in prison did not accommodate such person. The court ordered that he should be given an alternative punishment that is serving his punishment while he was out of prison. The plaintiff served punishment and completed’.²²

He added;

‘When I was shifted to Dar-es-salaam, we were charged with armed robbery case **Republic v. Mashaka Jackson 2007, District Court Dar-es-salaam** (Unreported case). Mashaka Jackson was an intersex person who was presented as a female. Had breast and appeared as a woman physically. All the documents presented the person as female including birth certificates. Was charged 30 years imprisonment under section 222(a) of The Penal Code Cap 16 R.E 2002, which covers attempts of causing grievous harm to a person. As usual the person has to be checked first his/her sexual organs before being referred to the appropriate prisons. After checking we discovered that the person has a penis which erects and vagina. Therefore this became my second experience”. We took the person to Muhimbili Hospital for further checkup and the doctors discovered that female organs were functioning, and the penis erects. In this case the person could not serve the punishment out of prison because of the nature of the offense committed. The question rose to us as to where should we put the criminal? We later on decided to put the person in male prisons under the security of two police officers, due to the fear that if we would keep the

²² On 4th January 2016 at Ukonga Prison Cells Dar-es-salaam

person in female prison might impregnate and seduce women. And last year we referred him to Tabora prisons his origin home. Despite the complaints no measures have been taken by the magistrates and judges to ensure recognition of these people under the law'.²³

In order to triangulate the data above mentioned it was necessary to visit the Court of Appeal of Tanzania, to assess whether the information given by the Head of Prison was accurate. I had to organise an interview with the magistrate who said the following:

'I have been dealing with many cases, but people are normally presented as either male or female. If it is an intersex person will have to be either male or female. I think recognition of intersex persons is against our culture, morals, laws and policies of the country'.²⁴

The law turns sexualities into a space through which instruments of state control and dominance can be deployed (Tamale, 2011). So although the Constitution provides for the right to equality and non-discrimination (under article 13), the right to privacy (under article 16), The right to recognition and dignity (under article 12(2)), article 16 of ICCPR provides for the right to recognition, article 3(1) and (2) of the Banjul Charter provides for equality and equal protection before the law, and article 17 of ICCPR provides for the right to privacy, but when it comes to reality of intersex people the state is openly breaching these fundamental human rights.

For instance we talk of the right to privacy, equality and non-discrimination while intersex prisoners do not have a proper place assigned for them to stay. We talk of recognition while intersex people are not recognised as persons before the law. The state has failed to comply with national and human rights instruments in the protection and promotion of the rights of intersex persons living within its borders. In reality citizenship is based on power exercised through social, economic and political structures all of which exclude intersex persons.

3.2.5 The impact of the current education system on Intersex persons

In order to assess if there were any measures taken by the Ministry of Education to ensure the recognition of intersex persons within the education system it was important for me to meet with two government officials in different departments within the Ministry and conduct interviews with them. During my interview with Literacy and Numeracy Education Programme Officer, she commented as follows:

²³ On 4th January 2016 at Ukonga Prison Cells-Dar-es-salaam

²⁴ On 14th January 2016 at the Court of Appeal of Tanzania-Dar-es-salaam

‘I am personally not aware of the existence of intersex people, we have a programme of violence against children at schools to involve teachers and parents in the process of learning for their children, but no strategy have been done to involve teachers and parents of intersex children in the learning process as a Ministry. Even the boarding schools which have been built include the male and female facilities. So far we have the education policy which covers male and female only’.²⁵

In order to find out if there was any program in the adult education programme that covers intersex persons who did not complete their education due to various social and economic reasons. I had to look for the director of Adult education and conduct an interview. He remarked as follows:

‘In my department there is a program called complimentary basic education in Tanzania. The aim is to increase access of schools to people who dropped because of pregnancy, poverty, HIV/AIDS and other factors. But intersex people were not involved’.²⁶

Also I thought it was important to link the information to the interview with the Head of Prison which opened a lot of unveiling issues in the education system with regards to intersex people; he had the following words to say:

‘Apart from my work I met with an intersex person in Dar-es-salaam who was in a boarding school (refused to mention the school) identified as a female, lived in female dormitories, ended up impregnating her fellow student. The question rose to the school department as to who impregnated the girl, since it is a girls school, when they came to school both of them were not pregnant. Could it be male teachers? When the girl was highly convinced by teachers she spoke the truth. Both the intersex person and the girl who was impregnated were chased out of school’.²⁷

This shows the weakness in the education system. Building boarding schools which are male and female only, establishing toilet facilities that cater male and female only, forces other people including intersex children who do not conform to pretend to be either male or female in order to obtain education. Article 11(2) of the Constitution gives every person the right to education. Article 17 of ICESCR gives every individual the right to education. These provisions oblige the Ministry of Education to ensure that intersex persons receive education. Mixing intersex children in the boarding schools which are only for male and female persons violates their right to privacy under article 16 of the Constitution. Despite all these problems that have occurred, still no

²⁵ 18th November 2015 at the Ministry of Education and Vocational Training-Dar-es-salaam.

²⁶ 18th November 2015 at the Ministry of Education and Vocational Training-Dar-es-salaam.

²⁷ 4th January 2016 at Ukonga Prison Cells-Dar-es-salaam.

measures have been taken by the Ministry to address the needs of intersex people in the current education system.

3.3 The role that human rights governmental and non-governmental organisations can play

Having realised that intersex people were exposed to interlocking oppressions right from their birth, and throughout their lives which endlessly conspire to deny them their human rights and opportunities, I realised that it was important to assess the role played by governmental and non-governmental organisations in the promotion and protection of the rights of intersex persons. The Commission for Human Rights and Good Governance is an independent government department which aims at the protection and promotion of the human rights of people in accordance with the Constitution of the United Republic of Tanzania (Tanzania Commission for Human Rights and Good Governance, Act No 7 of 2001). Its main functions are to empower people to realise their rights, and to assist those who are responsible for upholding such rights in making sure that they are implemented (United for Human Rights 2008-2016).

Other functions include. To visit prisons and places of detention or related facilities with the aim of assessing and inspecting conditions of the persons held in such places and make recommendations on addressing the existing problems; to advice the government and other public organs and private sector institutions on matters related to human rights and administrative justice; to institute the proceedings in court designed to terminate activities involving violations of human rights or redress the right or rights so violated; to make recommendations relating to the existing and proposed legislation, regulations, administrative provisions, to ensure compliance with the human rights norms and standards (The Tanzania Human Rights and Business Country Guide, 2013).

The main work of the non-governmental organisations is to make sure that the government and other entities that are in power, protect and promote human rights of people, also fulfil their human rights obligations (Manual for Human Rights Education with Young People, 2015). They are not supposed to favour or work in the interest of a certain group, but however advocate for changes in law and public policy where necessary (Manual for Human Rights Education with Young People, 2015).

The functions or mandate of the human rights non-governmental organisations include fighting individual violations of human rights directly or by supporting various test cases through relevant courts; The provision of direct assistance to those people whose rights have been violated, lobbying for changes at national, regional and international law; helping to improve and develop the substance of those laws ; promoting knowledge and respect for human rights in the communities (Manual for Human Rights Education with Young People, 2015).

No measures have been taken to ensure recognition of intersex people by the Commission for Human Rights and Good Governance. The Commission heard of the cases of intersex prisoners which brought confusion to the Head of Prison Cells as to where to keep intersex prisoners, but still no steps have been taken to ensure the recognition of these people under the law. No awareness campaigns have been conducted by the Commission to ensure the realization of the rights of intersex people. Even though members of the Commission had attended various training sessions organised by LGBTI²⁸ organisations, intersex people were not presented in the trainings and meetings, which is one of the reasons why they did not appreciate the need to recognise intersex people.

I had an opportunity to visit non-governmental organizations involved with gender, and human rights issues. Those organisations that defended the rights of intersex persons were found among the LGBTI²⁹ community. There was only one organisation that specifically dealt with intersex persons and the method of awareness was very low key in that it did not specifically mention intersex persons, but rather referred only to vulnerable children and they included intersex persons. Those organisations that specifically dealt with gender issues did not include intersex persons. Those that dealt with the protection and promotion of human rights did not include intersex. Those that dealt with LBTI people were still facing a lot of challenges, since the movement of gays and lesbians was against the countries laws and policies, and so they opted to work secretly. This was expressed in the interview with one of the directors in the LGBTI organisation which answered questions I had from any previous interview with a human rights governmental organisation:

²⁸ Lesbians, Gays ,Bisexual, Transgender, and Intersex

²⁹ Lesbians, Gays, Bisexual, Transgender, and Intersex

‘No advocacy on human rights, we still work under the umbrella of health, it is difficult to advocate openly on the rights of LGBTI people because it is against the laws and policies of the country. Media spread negative information to the community, religious leaders preaches negatively to the community’.³⁰

The table below shows the activities of human rights organisations in Tanzania from which intersex people have been excluded.



3.4 The role played by the media toward intersex persons

After getting information from various government officials in different ministries and departments. I found that it was important to visit the Ministry of Information to see if they were taking any measures to provide awareness to the community about intersex persons. In order to

³⁰ On 6th January 2016 at CHESA- LGBTI organisation-Dar-es-salaam

make this effective I had to organise individual interviews with different departments in the Ministry who did not want their names to be mentioned. This is the information provided:

‘The main work of the ministry is to coordinate all media within the country to make sure that they do not go against the ethics and conducts of its work. But still cannot intervene the private work of the media. Therefore we do not receive any information from the private media. As a ministry, the only news reported to us is the ones within the government issues. And the government cannot interfere with private issues within people’s homes. As a ministry we are aware of LGBT people, of which the countries laws and policies do not support them, but not intersex persons, I am personally not aware of them. No awareness campaign conducted by the ministry with regards to intersex persons’.³¹

The Constitution of the United Republic of Tanzania, article 18(d) gives every person a right to be informed at all times of various important events of life and activities, and this also includes issues which are of importance to the society. These provisions conform with article 9 of the Banjul Charter which provides for the right to receive information. Therefore failure of the government Ministry to provide awareness to communities about intersex persons, contravenes the above mentioned provisions in both national and international instruments.

The gap between the public and private arena permeates into the state’s discrimination against intersex persons. It is very hard to separate the two spheres, because they are interdependent on each other. The terms public and private are fundamental to the language of our law, politics, and social life, but they are a source of continual frustration; many things seem to be public and private at the same time in varying degrees or in different ways (Starr, 1988). Hence end up being called a distinction which in real sense has no any difference.

What was considered private, meaning that the usual distinction between public and private was useful, but no longer able to serve our best purposes (Lunbeck, 1994). The fact is that violence and discrimination begin at home, at the hands of those people who are closely related to the victims, for example fathers, mothers, uncles, aunts, and the perceived betrayal of these so called loved ones is what makes it so difficult for victims to report such abuse. Likewise, intersex people first face discrimination within their own homes and this is the very place that the government refuses to intervene to protect them. In other words research like this is showing that notions of state responsibility that rely on state non-interference with areas of privacy within the

³¹ On 8th January 2016 at the Ministry of Information-Dar-es-salaam

family, overlook the character of the activities allegedly being protected and freeze one-sided evaluations that neglect the qualified nature of these rights (Romany,1993).

International law especially human rights law is a channel through which peoples value are shaped, advanced and refined. A feminist approach to human rights law, therefore, grapples with the core narratives underlying the individual and the state, and by doing so exposes from a gender perspective their inconsistencies and exclusions (Romany, 1993). For years feminist have been concerned with questions of difference, and this concern has exclusively focused on gender differences between men and women, how to account for those differences and whether and how those differences matter in private life and public policy (Higgins, 1996). My point of departure lies in the inclusion of intersex persons, and the expansion of the concept of gender difference to include intersex as a third sex category, of sex adding to the existing categories of men and women and to take into consideration those differences for purposes of allowing them to contribute to private life and public policy in the country.

3.5 Conclusion

In this chapter I revealed, based on various findings the effect of the imposed male/female sex binary requirement by various government ministries, departments, and non-governmental organisations, on intersex people in the attainment of their human rights. Based on these findings it is now important to ask ourselves questions in order to come up with appropriate solutions. For example is there a need to break the silence? And if so how do we break the silence about the hidden violence, every torture, that intersex people are secretly forced to endure at the hands of their families, communities and the government?

What is it that should be done in the legal system? Do we need to amend the laws we have and if so which laws? The next chapter will assess the gaps between where we are now and where we should be within our legal system and our country's policies in the protection and promotion of the human rights of intersex people. Moving from where we are to where we should be is a continual journey fraught with challenges, including those in our social structures. Analysing these gaps put us in a better position to assess further steps to be taken to ensure the progressive realization of the rights of intersex people.

CHAPTER FOUR

4.0 GAPS IN THE CURRENT LAWS AND POLICIES

Power and Knowledge as Discourse Constructs Social Identities (Morrel, 2001)

4.1 INTRODUCTION

It is people who are in power who have the authority to make decisions in the formulation of laws and policies in the country. I refer to legislators, policy makers, judges and magistrates, and their influence in the formulation of these laws and policies is greatly affected by the knowledge they have about sexuality. The formulation of these laws imparts people's access to identity, recognition and bodily integrity. The following questions arise: What do these people know about issues relating to sexuality? What is their understanding towards sex? Is it male and female only or more than that?

Tanzania has made significant progress in the formulation of laws and policies which aim at protecting the human rights of people in the society. Laws and policies are made not only to regulate the conduct of the country, but also to ensure the effective implementation of their social, economic, and political rights. However a great deal needs to be done to ensure the realisation of the rights of intersex people within the nation. This chapter focus on revealing the gaps in the laws and policies we have, and the challenges influenced by intersex people all of which impact negatively upon intersex citizens and their rights. The purpose is to suggest appropriate solutions to these gaps and challenges.

4.2 GAPS IN LAWS AND POLICIES

4.2.1 Gendered nature of the law

One of the main purposes of the law is to regulate and protect the sex and gender system in the society (Tamale, 2011). Having realised that the law has been formed purposely to regulate the sex and gender, I reasoned that it also ensures the protection and promotion of the rights of these people. In this section of the study I found that it was necessary to understand how the law affects other categories of people like intersex people who do not conform to the defined sex and gender system of the country which is based on the male and female sex binary. The Constitution of the United Republic of Tanzania is the mother law of the country, and all other laws formed in

the country have to conform with it. Article 13 of the Constitution provides for equality and non-discrimination:

‘That all persons are equal before the law and are entitled to protection without discrimination’.

Therefore an intersex person is a person, in this provision they are entitled to all the social services given to other people who do not conform in their group (male and female), and this right should be protected without discrimination. Article 11(2) of the Constitution also provides that every person has the right to education, including ‘intersex persons’. This shows that intersex people are entitled to equal enjoyment of the right to education under the Constitution.

It is the obligation of the state to ensure the full realization of this right to education to all human beings in the country. For instance, if it has been provided in the Constitution that every person has the right to education, then it is the duty of the state to ensure the provision and realization of this right to every person including intersex persons. In the same way as it would be discriminatory, unconstitutional and illegal to exclude disabled male or female children from attending school on the ground of their disability in breach of their human rights to education, so too it is discriminatory, unconstitutional and illegal to exclude intersex children from attending school on the grounds of their sex and gender in breach of their human right to education.

Article 12(2) of the Constitution provides that every person has the right to recognition as a person before the law and dignity. This means that they are entitled to recognition and dignity just as other people in society. Therefore the state has an obligation to ensure the protection, promotion and realization of the said right in respect of ‘every person’ including every ‘intersex persons’. The states observance of this right should be extended to all intersex persons in its provision of the various social services provided to all its citizens throughout. So, for stance, the state authority responsible for registering the birth and death of its citizens should record the birth of ‘every person’ including every intersex persons by recording them as an intersex child. Failure to do so would amount to discrimination.

If the government builds prison facilities and excludes the accommodation of intersex persons then that would amount to the denial of the equal treatment before the law. If the Population and Housing Census counts only male and female citizens, then that would amount to discrimination

of intersex persons. If human rights organisations in Tanzania fail to address the rights of intersex people then that is discrimination. Article 16 of the Constitution provides every person including every 'intersex person with the right to privacy. The state has the primary obligation to ensure the protection and promotion of the said right to all people including intersex persons.

Article 5 of the Constitution provides every person including every intersex person with the right to vote. The problem arises when it comes to its implementation one needs to be either male or female in order to exercise the said right. For a person to vote there has to be a proof that they are citizen of the country, and one form of proof is a birth certificate. At the moment allows only the sex of a person to be described as male or female. Identifying a person as an intersex person is currently not an option.

The word 'every person' in the Constitution has been interpreted to mean only every male and female person, and not intersex persons. This is due to the fact that those people, who influence the formulation of the country's laws, understand and interpret sex as male and female only and nothing else. Their mindset, therefore, also affect the way they interpret the laws of the country. It is for this reason that we have various Ministries and departments which provide national services that cater only for male and female people.

It is in this area that I think it is important to understand that the Constitution being the supreme law of the country has failed in this one fundamental respect. In Part III of the Constitution it refers to Basic Rights and Duties but has failed to prohibit the denial of equality and non-discrimination on the grounds of a person's sex or gender as a result it has failed to legally recognise intersex people as the human beings they inherently are. Sex and gender can no longer be overlooked or ignored in the work of human rights (Miller, 2004:6). There is a need to address matters related to sex and gender in the Constitution. Failure to do so will strip the Constitution of its authority.

4.2.2 The Weakness of National Gender Policy 2013-2017

The policy visions are to achieve a gender society in which men and women enjoy equity, contribute and also benefit as equal partners in matters relating to the development of the country, to remove gender discrimination and inequality in all spheres of life (National gender policy, 2013-2017). There is a funding gap for gender – sensitive initiatives identified in national

plans (World Bank, 2009). Gender in society has been informed to include men and women only; therefore a gender responsive budget will specifically address the needs of men and women only.

According to the resources available the policy has set up eight goals that needs to be accomplished and they are economic empowerment, education and training, Constitutional and Legal Rights , Politics and decision making, Gender and environment, Health, Gender Based Violence, Media and Information Communication Technologies (ICTS) (National Gender Policy,2013-2017). In order to ensure the effective accomplishment of the goals the government established the gender mainstreaming in the budgeting process in such a way as to expose the social problems that are caused by gender inequality. Gender mainstreaming in the budget process will specifically look at the needs of men and women and recognise the strong interrelatedness between the inequalities suffered by both men and women. For instance, if it is found that girls are less than boys in realizing their right to education measures may be taken to break the barriers that prevent girls from attaining the same level of education as boys.

Therefore, if intersex people are not included as beneficiaries of the eight goals mentioned in the gender policy, this will mean that any decision taken in relation to development will not benefit them, and this clearly is the weakness of the policy. If those people who participated in the formulation of the gender policy, understood that the sex of the country's citizen to be male and female only, this would explain but not excuse their exclusion of intersex people. It is very disturbing to think that when the government set the national budget that specifically addresses the needs of its people, it omitted intersex people. Is it fair that in order for an intersex person to benefit from the development of the country they will have to lie that they are either male or female? With respect the government incorrectly assumes that the needs of men and women will automatically fit the needs of intersex persons.

Therefore in evaluating the gender policy, the evidence shows that its formation and implementation contain many weaknesses. More work needs to be done to make it more inclusive and less exclusive, to include in it intersex people who were not originally part of it.

The diagram below shows how intersex people have been excluded in the eight goals of gender policy.



4.2.3 The National Population Policy and the Tanzania Penal Code Cap 16 R.E 2002

Tanzania has a population policy which only includes male and female persons. This means that the population is measured only in terms of men and women, and excludes any person who does not conform to being either male or female. Therefore in order to be recognised as a member of the population one is forced to conform being either male or female so that they can be recognised. The Penal Code is the Act that aims at regulating the punishment of all offenders in the country and it is silent on matters relating to intersex people. In other words offenders are

forced to conform to being either male or female. This becomes highly problematic when prison authorities are presented with intersex prisoners who, through no fault of their own, can not conform to this unrealistic and impossible demand and such authorities understandably struggle to accommodate and treat such prisoners.

4.2.4 The weakness of the current Education Act 1978, and Education and training policy,

Both the Tanzania's Education Act and the Education Policy have failed to mention intersex people. While one of the objectives of both these documents is to increase access to education, by focusing on the equity issue with respect to women (as historically disadvantaged group). They have both omitted any reference to intersex people. Also the Education Act aims at ensuring equal access of education to all citizens, but when it comes to its implementation intersex people are not included.

4.3 Challenges within social structures

The findings of this study revealed that Tanzania has only a few organisations that specifically address the rights of intersex people, and their work is still not recognised by the government. Its raising of awareness of intersex people is still low which means intersex people still have no voice in the immediate communities or society at large since they do not speak for themselves. I remember during the interview with an intersex person, they told me they were not aware of any organisation that deals with intersex people, they had never met another intersex person and this made them think that they were alone in this world.

The media does not provide any awareness to the community on matters related to intersex people, but they do act as a medium through which society humiliates and exploits intersex people. Since most of the organisations dealing with intersex people are found part of the LGBT movement which is not supported by government or society. Media reports negative information to the community about LGBT people, and as a result continues to silent and hides intersex people. During my interview with one of the directors of an LGBTI organisation, one of the challenges he raised was that the media reports only negative information to the community about intersex issues.

Religion is another major barrier that continues to force intersex people to stay in hiding from religious belief that God created only male and female give rise to the belief that intersex people

are cursed. Religious leaders are important in the society because since most people tend to believe what they say. During my interview with the executive director of an LGBTI organisation one of the main challenges he raised was that religious leaders preach negative information to the community about intersex people and this affects their work ability to help them.

4.4 Conclusion

The findings of this research show that it is very important to understand that the concept of equality and non-discrimination starts with our mind set of what we believe, and that the knowledge we have about and our attitude towards sex directly affects the decisions we make about any issue relating to the subject. If we will change our mindset and start looking at possibilities of life from another point of view, this will automatically influence the formulation of laws and policies in our country. Then all we will need to do is effectively implement the inclusive said laws. The next chapter will focus on suggesting possible ways of attaining equality, justice and fairness for intersex people living in Tanzania.

CHAPTER FIVE

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This paper has examined the social and legal situation of intersex people from a fundamental rights perspective. It has drawn evidence from a feminist legal analysis of prevailing practices within the country's social and legal structures. Therefore from the findings discussed in the previous chapters the following conclusion can be drawn:

That most people are not aware of the existence of intersex people in Tanzania. The idea that human beings have to conform to the defined sex which is either male or female has made intersex people become a hidden community. The word community is used advisedly because intersex people do not socialise together as a normal community. The fact is that they are so shunned by their families and made to feel ashamed of their condition that neither they nor anyone else even talk about them to the point that they feel totally alone and uniquely abnormal in the world. Therefore they often only find out about one another's existence by accident and are often surprised that there are other people suffering silently just like them. Parents with intersex children hide them because society finds them abnormal; most governmental and non-governmental officials are not even aware of the existence of intersex people, and this has meant that the delivery of national services are made available to male and female citizens only.

That religion and biased cultural practices prevent intersex people from attaining their rights to identity in Tanzania leading to a string of human rights violations against them. Most of the government officials when they were asked if they saw a need for the recognition of intersex people under the law, the first of reply was that this was against their culture and religion; parents described the intersex condition as a curse, witchcraft, and a disability; religious leaders believe that God created male and female only. All these attitudes act as a barrier against intersex people to attaining their rights.

That most people do not see the need for recognising intersex as a third sex identity because of religious and cultural attitudes. Religious leaders did not see the need because they said it was against God's will. They believe that God created male and female only. Non-governmental officials dealing with gender and human rights issue did not see the need because of cultural and religious influence. Government officials did not see the need because of the influence of culture and religion.

That the law reinforces discrimination of intersex people in Tanzania thereby violating their right to identity. The Tanzania Constitution has failed to give a clear definition of the concept of equality and non –discrimination, unlike The Constitution of South Africa which clearly prohibit discrimination on the basis of sex and gender. The Penal Code Cap 16 R.E 2002 does not mention intersex people, which means that are forced to identify themselves as either male or female in court proceedings.

That intersex people are discriminated against as a result of government's failure to put in place adequate measures to ensure the recognition of their rights in Tanzania. For example Prison authorities do not have a proper place to keep intersex prisoners; the Ministry of Education builds schools and facilities that cater for male and female persons only; the authority responsible for the registration of births and deaths register male and female persons only; the National Bureau of Statistics keeps records of males and females only; the Department of Immigration issues passport to male and female persons only; the National Identification Authority issues National Identity Cards to male and female persons only.

That the level of participation of non-governmental organizations (NGOs) in the protection and promotion of the rights of intersex people is still low in Tanzania. Human rights organisations do not advocate for the rights of intersex people, and most of the organisations that do deal with intersex people are found in the LGBT movement whose activities the government considers violates its laws and policies. Those NGOs that specifically deal with intersex people do not expressly them in their promotional literature or awareness raising exercises.

That the government has a positive obligation to recognise intersex people as human beings and persons before the law and to ensure the protection and promotion of all their human rights in terms of the Constitution. The government has a positive obligation under national and

international instruments to ensure the protection and promotion of the rights of intersex people; however, it has failed to fulfil its obligation to recognise intersex people and ensure the protection and promotion of their rights.

5.2 RECOMENDATIONS

From the above conclusions the following recommendations are made;

That there is a need for the recognition and acknowledgment of intersex in the Constitution as a third sex identity. In order to ensure that we are able to address the needs for intersex persons, I think it is important for the Constitution to be amended to recognise intersex people for who they really are. This means that we need to have M/F/Intersex. We exist in a society in which people are forced to live within the incomplete sex definition which considers only male or female. If we continue to do so, we continue to deny the existence of intersex human beings and their rights.

If we do not recognise intersex people and respect their rights we will continue to put parents who have intersex children under pressure to ensure that their children undergo surgery while they are still young. The situation becomes worse when it is found that these people cannot survive if the surgery takes place. In my interview with an intersex person I realised that there are people who have no option but to remain intersex, because it has been found that if surgery takes place they would die. In other words forcing surgery on intersex people may endanger their lives.

Tanzania can learn lessons from other countries such as Germany and Australia which allow parents to put an X for children who have been born to them with ambiguous genitalia, in the place that requires the sex of the child to be identified. The child is allowed to reach majority and decide which sex they want to be. Therefore this puts the two countries in a better position to advance the rights of intersex persons.

There is a need to redefining rights and the concept of sex and gender in Tanzania's laws, policies and practices

The Constitution of the United Republic of Tanzania being the supreme law from which all other laws flow, are formulated and evaluated has failed to give a clear definition of rights. For instance, article 13 provides:

‘All persons are equal before the law and are entitled to protection without any discrimination’.

It can be shown clear that the word ‘equality’ and ‘non- discrimination’ have not clearly been defined to include sex and gender. Hence remains the work of society to interpret sex and gender into non-discrimination provisions of the Constitution in order to ensure the concept of equality and non-discrimination is giving its full meaning in the protection of all human beings including intersex people. If this is not done we end up having a group of people who do not conform in the defined sex and gender hence remain discriminated. Tanzania can get the lesson from the Constitution of South Africa, Chapter Two on The bill of rights which has defined the concept of equality and non-discrimination on the basis of sex and gender. This puts the country in a better position to advance the rights of intersex persons.

The words ‘every person’ are used in almost every provisions of the Constitution conferring human rights on its citizens such as article 11 which gives the right to education, article 12(2) which calls for the recognition of all persons before the law and respect for their dignity, article 16 which ensures the right to privacy. When it comes to implementation however it is clear that the word ‘every person’ is used to refer only to the two sexes which are male and female. Hence there is a need for the Constitution to redefine rights according to the sex and gender (i.e. M/F/Intersex) so that it becomes clear.

There is a serious need to amend the gender policy to include intersex people, so that they are able to benefit from the nation’s development programs. I previously indicated in the last chapter that intersex people have not been included in the eight goals of the gender policy. The only people included so far are male and female persons. This means that any action taken in relation to development excludes intersex people.

There is a need to amend the nation’s population policy, to include intersex people since the current population policy counts the population in terms of male and female persons only and exclude other people who do not conform to either male or female. This means that in the case of any development issue intersex people will be excluded, because they are not included in both male or female group and this, surely, cannot be allowed to continue.

There is a need to amend the current Education Act and the Education and Training Policy to include intersex people. Neither the current Education Act nor the nation's Education and Training Policy has included intersex people. Schools existing in Tanzania have facilities which do not cater for intersex people and this act as a barrier against intersex people from enjoying their right to education. This is unconstitutional and cannot be allowed to continue.

Protection from non-consensual medical interventions, there is a need to have an Act on sex and gender identity that will specifically protect children from early surgery, by prohibiting doctors to undergo surgery to children with intersex condition; this will make the country in a better position of advancing the rights of intersex people. The proposed Act could also give intersex persons the right to sue for damages in case brought for non-consensual surgical intervention.

Provision of counselling to intersex people. I think it is important to provide counselling to intersex people, to help them feel that they belong to their community and that being intersex is not a curse. This will make them in a better position to regard themselves as human beings just like male and female persons in the community. Because at the moment intersex people finds themselves abnormal when they compare themselves with others (i.e. male and female).

Provision of awareness to medical professionals. Medical professionals should be informed about the fundamental rights of intersex people, particularly children, so that they are made aware of the negative effects that might occur as a result of convincing parents with intersex children to undergo surgery. This will help to protect intersex children to undergo early surgery while they are still young.

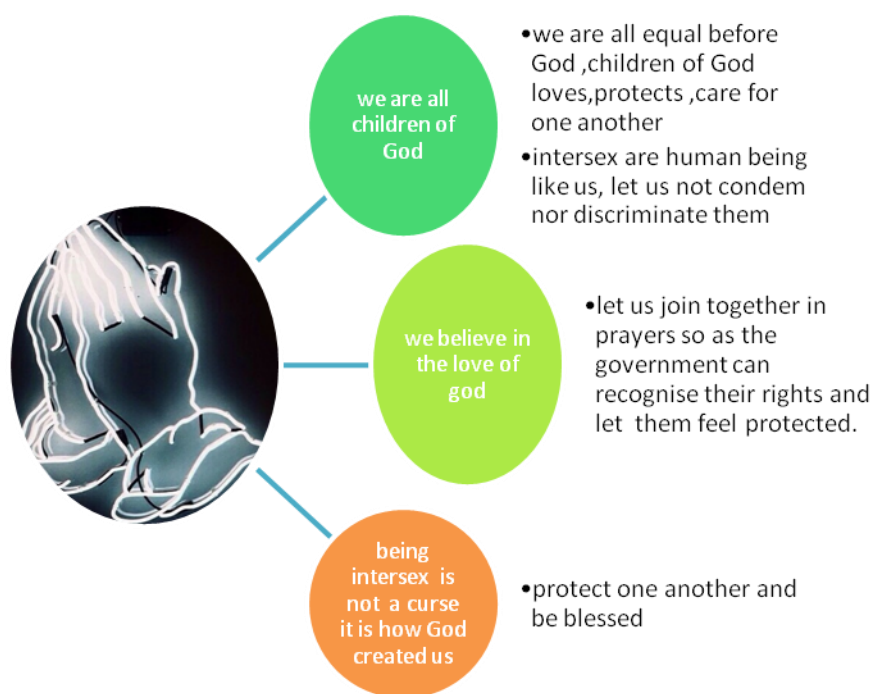
There is a need to have an intersex awareness day. This will help to highlight the challenges faced by intersex people within social and legal structures. The government and NGOs alike should actively co-operate together to learn about and share understanding of the lived realities and needs of intersex people to be in a better position to address their concerns.

There is a need to provide training to religious leaders, there is a need to provide compassionate and sensitive training to religious leaders and make them aware of the existence of intersex people, so that in turn may find suitable ways of sensitively raising awareness within

communities. This is very important because so many people in communities put a lot of trust in their religious leaders and follow their example.

Therefore if they can be used effectively can become a vital channel through which intersex people can be slowly and gently embraced into their communities where they can begin to realise their human rights. For instance, after the provision of training, religious leaders can be invited to speak on certain radio and television programs on matters related to intersex people. They can make fliers for distribution in church that aim at providing awareness to the community. They can be distributed to church members, who in turn, can give them to other members of the community, arranging talk shows in church involving parents, and youth (all together or separately) on matters related to intersex people.

The figure below shows suggestion for the information dissemination strategy to be used in church by the religious leaders.



There is need to provide training to media reporters. The media can be a good medium for raising awareness to intersex people and their rights among communities. Effective training of media reporters means making them aware of the existence of intersex people so that they can find a way of reporting about them in the media in positive ways within their communities. For

example program in the television and radio can be launched to encourage positive discussion relating to sexuality. Newspapers and magazines can also be used to raise positive awareness about the existence of intersex people and their unique needs and rights.

There is a need to organise workshops for legislators and policy makers, legislators and policy makers are the ones who significantly influence the formulation of laws and policies. Therefore it is important to organise workshops with the aim of making them aware about the existence of intersex people so that innovative and sensitive ways can be found to include them in the country's laws and policies.

There is a need to organise workshops for governmental and non-governmental officials. It is important to find ways of involving government and non-governmental officials in various workshops with the aim of making them aware of the existence of intersex people since they are the ones who implement the existing laws by providing various services to the community. They need to be trained to realise that the population comprises male, female, and intersex people.

There is a need to organise seminars for human right activists in Tanzania, because they have a great influence in the process of realisation of the human rights of people within Tanzania communities. therefore if used effectively they can be a very good channel for bringing about changes within communities, by revealing issues about intersex people which needs to be understood or accepted and they can help to find ways to include intersex people into society by amending the laws and policies.

There is a need for sexuality education to be included in the education curriculum at every level, so that these issues are no longer hidden from communities. Ignorance about intersex people has bred society's prejudice against them and pushed them into a hidden and lonely existence of fear. Education will help society to accept and welcome them as valuable members.

There is a need to bridge the gap between private and public sphere. The idea that the government should not interfere with people's lives in their homes should no longer be embraced, Article 16 of the Constitution provides:

‘Every person is entitled to protection of his person, the privacy of his own person, and his family’.

I think it is important to understand that most of discrimination against intersex people begins within family. Therefore the gap between the public and private sphere need to be removed so that that the government may intervene and protect intersex people from all forms of discrimination at the family level.

The use of theatre, songs, and dance as an information dissemination strategy. In order to remove discrimination against intersex people, I think it is important to engage with everyone in the communities at all levels (including parents, teachers, boys, girls), by talking to them one by one about all the kinds of risk that intersex people face in their communities, for example by being forced in relation to social and legal structures to conform to the sex of either male or female. The idea is not to criticize what they believe, but to find a way of telling them that perhaps what they used to think about sex is only part of a greater reality about sex and gender. Intersex is the third sex and it completes the identity of sex in society.

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Appendix

The tables below shows the results of the last National Census 2012 in which intersex people were not included .Available online at http://ihi.eprints.org/2169/1/Age_Sex_Distribution.pdf on 16th March 2016

Table 1.1: Summary Results by Age and Sex, Tanzania 2012 Census

Population Group	Tanzania		Tanzania Mainland		Tanzania Zanzibar	
	Number	Percentage	Number	Percentage	Number	Percentage
Total Population	44,928,923	100.0	43,625,354	100.0	1,303,569	100.0
Male	21,869,990	48.7	21,239,313	48.7	630,677	48.4
Female	23,058,933	51.3	22,386,041	51.3	672,892	51.6
Children (Under 1 year)	1,499,389	3.3	1,457,151	3.3	42,238	3.2
Male	747,826	3.4	726,536	3.4	21,290	3.4
Female	751,563	3.3	730,615	3.3	20,948	3.1
Children (0–4 years)	7,273,832	16.2	7,069,895	16.2	203,937	15.6
Male	3,637,982	16.6	3,535,673	16.6	102,309	16.2
Female	3,635,850	15.8	3,534,222	15.8	101,628	15.1
Young Population (0–14 years)	19,725,456	43.9	19,171,107	43.9	554,349	42.5
Male	9,864,400	45.1	9,586,897	45.1	277,503	44.0
Female	9,861,056	42.8	9,584,210	42.8	276,846	41.1
Young Population (0–17 years)	22,504,526	50.1	21,866,258	50.1	638,268	49.0
Male	11,240,635	51.4	10,922,412	51.4	318,223	50.5
Female	11,263,891	48.8	10,943,846	48.9	320,045	47.6
Youth Population (15–24 years)	8,562,875	19.1	8,297,772	19.0	265,103	20.3
Male	4,032,029	18.4	3,909,204	18.4	122,825	19.5
Female	4,530,846	19.6	4,388,568	19.6	142,278	21.1
Youth Population (15–35 years)	15,587,621	34.7	15,115,987	34.6	471,634	36.2
Male	7,314,116	33.4	7,096,862	33.4	217,254	34.4
Female	8,273,505	35.9	8,019,125	35.8	254,380	37.8
School-Age Population						
Primary school (7–13 years)	8,584,317	19.1	8,341,701	19.1	242,616	18.6
Male	4,287,908	19.6	4,166,593	19.6	121,315	19.2
Female	4,296,409	18.6	4,175,108	18.7	121,301	18.0

National Census 2012, Available online at http://ihi.eprints.org/2169/1/Age_Sex_Distribution.pdf on 16th March 2016,

Population Group	Tanzania		Tanzania Mainland		Tanzania Zanzibar	
	Number	Percentage	Number	Percentage	Number	Percentage
Secondary School (14–17 years)	3,813,299	8.5	3,699,137	8.5	114,162	8.8
Male	1,888,584	8.6	1,833,040	8.6	55,544	8.8
Female	1,924,715	8.3	1,866,097	8.3	58,618	8.7
Working Age Population (15–64 years)	23,466,616	52.2	22,754,122	52.2	712,494	54.7
Male	11,185,603	51.1	10,850,907	51.1	334,696	53.1
Female	12,281,013	53.3	11,903,215	53.2	377,798	56.1
Women of Reproductive Age (15–49 years)	10,905,117	47.3	10,566,110	47.2	339,007	50.4
Elderly Population (60+ years)	2,507,568	5.6	2,449,257	5.6	58,311	4.5
Male	1,200,210	5.5	1,170,323	5.5	29,887	4.7
Female	1,307,358	5.7	1,278,934	5.7	28,424	4.2
Elderly Population (65+ years)	1,736,851	3.9	1,700,125	3.9	36,726	2.8
Male	819,987	3.7	801,509	3.8	18,478	2.9
Female	916,864	4.0	898,616	4.0	18,248	2.7
Age-Dependency Ratio		92		92		83

National Census 2012, Available online at
http://ihi.eprints.org/2169/1/Age_Sex_Distribution.pdf on 16th March 2016.

Table 1.2: Summary of Key Findings by Region, Tanzania 2012 Census

Region	Population	Population 0-4 Years (% of total)	Population 5-14 Years (% of total)	Population 15-64 Years (% of total)	Population 65+ years (% of total)	Dependency Ratio	Age Ratio	Women of Reproductive Age (% of total female population)	Population living in Urban Areas (% of total)
Tanzania	44,928,923	16.2	43.9	50.1	52.2	3.9	91.5	47.3	29.6
Tanzania Mainland	43,625,354	16.2	43.9	50.1	52.2	3.9	91.7	47.2	29.1
Dodoma	2,083,588	16.0	45.5	51.3	49.6	4.9	101.5	44.1	15.4
Arusha	1,694,310	14.8	41.7	48.4	55.1	3.2	81.5	51.0	33.0
Kilimanjaro	1,640,087	11.7	37.8	44.9	55.1	7.0	81.4	46.4	24.2
Tanga	2,045,205	14.9	43.3	49.3	51.8	4.8	93.0	46.9	21.6
Morogoro	2,218,492	14.6	41.3	47.2	54.4	4.3	83.8	48.0	28.7
Pwani	1,098,668	14.0	39.9	45.6	53.9	6.2	85.6	47.5	32.8
Dar es Salaam	4,364,541	12.1	31.6	37.8	66.3	2.1	50.8	61.9	100.0
Lindi	864,652	13.0	39.3	44.5	54.4	6.3	84.0	47.9	18.7
Mtwara	1,270,854	13.3	38.5	43.7	54.8	6.7	82.4	47.2	22.9
Ruvuma	1,376,891	14.9	43.0	48.9	53.0	4.0	88.7	46.8	24.6
Iringa	941,238	13.7	42.0	48.4	53.6	4.4	86.5	47.1	27.2
Mbeya	2,707,410	15.6	43.0	49.5	53.0	4.0	88.8	48.5	33.2
Singida	1,370,637	17.4	47.0	52.8	48.3	4.7	107.0	43.5	12.5
Tabora	2,291,623	18.6	48.4	54.6	48.1	3.5	107.9	44.0	12.5
Rukwa	1,004,539	19.7	50.5	56.4	47.0	2.6	112.9	43.2	23.6
Kigoma	2,127,930	19.3	48.8	55.1	47.5	3.7	110.4	43.1	17.2
Shinyanga	1,534,808	18.4	47.6	54.0	49.1	3.3	103.8	44.9	16.6
Kagera	2,458,023	18.3	47.7	54.0	48.8	3.5	105.0	43.6	9.2
Mwanza	2,772,509	18.0	46.7	53.1	50.3	3.0	98.9	46.3	33.3
Mara	1,743,830	19.0	49.6	55.6	46.9	3.5	113.2	42.9	17.4
Manyara	1,425,131	17.6	47.1	53.2	49.1	3.8	103.6	44.0	13.8
Njombe	702,097	13.3	41.9	48.3	53.5	4.6	87.0	47.2	23.6
Katavi	564,604	19.8	49.5	55.5	47.9	2.6	108.7	43.6	27.8
Simiyu	1,584,157	19.9	51.3	57.8	45.5	3.2	119.7	42.3	7.0
Geita	1,739,530	19.6	50.5	57.0	47.0	2.5	112.9	43.7	16.0
Tanzania Zanzibar	1,303,569	15.6	42.5	49.0	54.7	2.8	83.0	50.4	46.3
Kaskazini Unguja	187,455	16.0	42.1	48.3	54.4	3.5	83.8	49.3	8.9
Kusini Unguja	115,588	14.3	38.6	44.4	57.8	3.7	73.2	52.0	6.1
Mjini Magharibi	593,678	14.6	39.8	46.1	58.0	2.1	72.3	54.0	84.5
Kaskazini Pemba	211,732	17.6	47.8	54.7	49.1	3.1	103.7	45.4	18.6
Kusini Pemba	195,116	17.1	47.8	54.8	48.8	3.3	104.8	44.7	20.1